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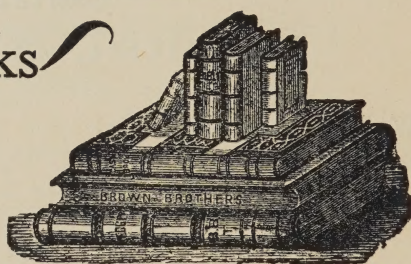
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LIMITATION OF ACTIONS.

R. S. O. 1897, CAP. 72.

An Act respecting the Limitation of certain actions.

LIMITATION OF ACTIONS—

For rent upon a demise, s. 1 (*a*).

On specialties, s. 1 (*b*).

On recognizances, s. 1 (*c*).

On awards, s. 1 (*d*).

For escape, s. 1 (*e*).

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s. 1 (*f*).

For penalties, etc., s. 1 (*g*).

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Of account or between merchants,
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NO DISTINCTION BETWEEN RESIDENTS
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CASES OF ACTIONS AGAINST JOINT
DEBTORS, SS. 6, 7.

EFFECT OF ACKNOWLEDGMENTS, s. 8.

LIMITATION IN INTESTACY, s. 9.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:

1.—(1) The actions hereinafter mentioned shall be com-
menced within and not after the times respectively hereinafter
mentioned, that is to say:

Limitation of
time for com-
mencing par-
ticular actions.

(*a*) Actions for rent, upon an indenture of demise,
R. S. O. 1887, c. 60, s. 1 (*1a*).

(*b*) Actions upon a bond, or other specialty, except upon
the covenants contained in any indenture of mortgage
made on or after the 1st day of July, 1894. R. S. O.
1887, c. 60, s. 1 (*1b*); 56 V., c. 17, s. 1, part; 60 V., c. 3,
s. 3.

(*c*) Actions upon a recognizance,
within twenty years after the cause of such actions
arose;

(*d*) Actions upon an award where the submission is not
by specialty,

(*e*) Actions for an escape,

(*f*) Actions for money levied on execution,
within six years after the cause of such actions arose;

- (g) Actions for penalties, damages, or sums of money given to the party aggrieved, by any statute, within two years after the cause of such actions arose; R. S. O. 1887, c. 60, s. 1 (1, c—g).
- (h) Actions upon any covenant contained in any indenture of mortgage, made on or after the 1st day of July, 1894, within ten years after the cause of such actions arose. 56 V., c. 17, s. 1, part.

Where time specially limited.

(2) But nothing herein contained shall extend to any action given by any statute, when the time for bringing the action is by the statute specially limited. R. S. O. 1887, c. 60, s. 1 (2).

Actions of account, etc., to be commenced within six years.

2. All actions of account or for not accounting, or for such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants, shall be commenced within six years after the cause of such actions arose; and no claim in respect of a matter which arose more than six years before the commencement of the action, shall be enforceable by action by reason only of some other matter of claim comprised in the same account, having arisen within six years next before the commencement of the action. R. S. O. 1887, c. 60, s. 2.

In case of disability of plaintiff.

3. In case a person entitled to such action, as aforesaid, is at the time of the cause of action accruing within the age of twenty-one years, or *non compos mentis*, then such person may bring the action, within such time after coming to or being of full age, or of sound memory, as other persons having no such impediment should, according to the provisions of this Act, have done. R. S. O. 1887, c. 60, s. 3.

Non-resident plaintiffs.

4. A plaintiff who is resident out of Ontario shall have no longer period of time to commence an action than if he were resident in Ontario when the cause of action or proceeding first accrued. R. S. O. 1887, c. 60, s. 4.

Non-resident defendants.

5. If a person against whom any such cause of action accrues, is at such time out of Ontario, the person entitled to the cause of action may bring the action within such times as are before limited after the return of the absent person to Ontario. R. S. O. 1887, c. 60, s. 5.

As to cases where some joint debtors have been within and some without Ontario.

6. Where a cause of action, with respect to which the period of limitation is fixed by the Imperial Act of the 21st year of the reign of King James the First, chapter 16, section 3, or by any Act now in force in Ontario, lies against joint debtors, the person entitled to the same shall not be entitled to any time within which to commence such action against any one of the joint debtors who was within Ontario at the time the cause of action accrued, by reason only that some other of the joint debtors was, at the time the cause of action accrued, out of Ontario. R. S. O. 1887, c. 60, s. 6.

7. The person so entitled shall not be barred from commencing an action against the joint debtor who was out of Ontario at the time the cause of action accrued, after his return to Ontario, by reason only that judgment has been already recovered against the joint debtor who was within Ontario at the time aforesaid. R. S. O. 1887, c. 60, s. 7.

Recovery against one joint debtor no bar to action against another who is absent.

8. In case an acknowledgment in writing, signed by the principal party or his agent, is made by a person liable upon an indenture, specialty or recognizance, or in case an acknowledgment is made by such person by part payment or part satisfaction, on account of any principal or interest due on such indenture, specialty or recognizance, the person entitled may bring an action for the money remaining unpaid and so acknowledged to be due, within twenty years, or in the cases mentioned in clause (h) of sub-section 1 of section 1 within ten years, after such acknowledgment by writing or part payment, or part satisfaction, as aforesaid; or in case the person entitled is at the time of the acknowledgment under disability, as aforesaid, or the party making the acknowledgment is, at the time of making the same out of Ontario, then within twenty years, or in the cases aforesaid within ten years, after the disability has ceased, as aforesaid, or the party has returned as the case may be. R. S. O. 1887, c. 60, s. 8; 60 V., c. 3, s. 3.

Effect of written acknowledgment or part payment.

9. No action or other proceeding shall be brought to recover the personal estate, or any share of the personal estate of a person dying intestate, possessed by the legal personal representative of such intestate, but within twenty years next after a present right to receive the same accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the estate or share, or some interest in respect thereof has been accounted for or paid, or some acknowledgment of the right thereto has been given in writing, signed by the person accountable for the same, or his agent, to the person entitled thereto, or his agent; and in such case, no action shall be brought but within twenty years after such accounting, payment or acknowledgment, or the last of such accountings, payments or acknowledgments, if more than one, was made or given. R. S. O. 1887, c. 60, s. 9.

An action to recover personal estate of an intestate or any part thereof, must be brought within twenty years. Imp. Act, 23 and 24 V., c. 33, s. 13.

EXECUTION.

R. S. O. 1897, CAP. 77.

An Act respecting Execution.

SHORT TITLE, s. 1.	Money and securities, ss. 18-20.
GOODS EXEMPT FROM SEIZURE, ss. 2-7.	Security to sheriff, ss. 21, 22.
WRITS AGAINST LANDS AND GOODS, ss. 8, 9.	Mortgages, ss. 18, 23-28.
Renewal of, s. 9.	WHAT MAY BE SOLD UNDER EXECUTION AGAINST LANDS—
WHAT MAY BE SEIZED UNDER EXECUTION AGAINST GOODS—	Equity of redemption of lands, ss. 29-32.
Stocks in certain companies, ss. 10-16.	Contingent interests, s. 33.
Equity of redemption of chattels mortgaged, s. 17.	CHURCH PEWS AND SITTINGS, s. 34.
	SALES AGAINST EXECUTORS, s. 35.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Execution Act.*" R. S. O. 1887, c. 64, s. 1.

EXEMPTION.

Chattels exempt from seizure. 2. The following chattels shall be exempt from seizure under any writ, in respect of which this Province has legislative authority, issued out of any court whatever in this Province, namely:

Bedding. 1. The bed, bedding and bedsteads (including a cradle), in ordinary use by the debtor and his family;

Apparel. 2. The necessary and ordinary wearing apparel of the debtor and his family;

Furniture. 3. One cooking stove with pipes and furnishings, one other heating stove with pipes, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs and shovel, one coal scuttle, one lamp, one table, six chairs, one washstand with furnishings, six towels, one looking glass, one hair brush, one comb, one bureau, one clothes press, one clock, one carpet, one cupboard, one broom, twelve knives, twelve forks, twelve plates, twelve tea cups, twelve saucers, one sugar basin, one milk jug, one tea pot, twelve spoons, two pails, one wash tub, one scrubbing brush one blacking brush, one

wash board, three smoothing irons, all spinning wheels and weaving looms in domestic use, one sewing machine and attachments in domestic use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this subdivision enumerated, not exceeding in value the sum of \$150 ;

4. All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of \$40 ; Fuel and provisions.

5. One cow, six sheep, four hogs, and twelve hens, in all not exceeding the value of \$75, and food therefor for thirty days, and one dog ; Animals.

6. Tools and implements of or chattels ordinarily used in the debtor's occupation, to the value of \$100 ; Tools.

7. Bees reared and kept in hives to the extent of fifteen hives. R. S. O. 1887, c. 64, s. 2. Bees.

3. The debtor may in lieu of tools and implements of or chattels ordinarily used in his occupation referred to in clause 6 of section 2 of this Act, elect to receive the proceeds of the sale thereof up to \$100, in which case the officer executing the writ shall pay the net proceeds of such sale if the same do not exceed \$100, or, if the same exceed \$100, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under said subdivision 6, and the sum to which a debtor shall be entitled hereunder shall be exempt from attachment or seizure at the instance of a creditor. R. S. O. 1887, c. 64, s. 3. Debtor may take proceeds of sale of implements, etc., in money.

4. The chattels so exempt from seizure as against a debtor shall, after his death, be exempt from the claims of creditors of the deceased, and the widow shall be entitled to retain the exempted goods for the benefit of herself and the family of the debtor, or, if there is no widow, the family of the debtor shall be entitled to the exempted goods. R. S. O. 1887, c. 64, s. 4, part. Goods exempted from seizure after death of the debtor to go to widow and family.

5. The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the several chattels exempt from seizure. R. S. O. 1887, c. 64, s. 5. Right of selection.

6. Nothing herein contained shall exempt any article enumerated in subdivisions 3, 4, 5, 6 and 7 of section 2 of this Act from seizure in satisfaction of a debt contracted for the identical article. R. S. O. 1887, c. 64, s. 6. Exception.

7. Notwithstanding anything contained in the preceding sections, the various goods and chattels which were prior to the first day of October, 1887, liable to seizure in execution for debt shall, as respects debts which were contracted prior to the Goods liable to seizure to continue so liable for debts contracted before Oct. 1, 1887.

said day, remain liable to seizure and sale in execution, provided that the writ of execution under which they are seized has endorsed upon it a certificate signed by the Judge of the Court out of which the writ issues, if a Court of Record, or where the execution issues out of a Division Court, by the Clerk of the Court, certifying that it is for the recovery of a debt contracted before the date hereinbefore mentioned. R. S. O. 1887, c. 64, s. 7; 51 V., c. 11, s. 6.

WRITS AGAINST LANDS AND GOODS.

Lands and goods to be included in one writ.

8. Subject to Rules every writ of execution issuing under any judgment or order of a Court or Judge for the payment of money, except a writ of execution issued from a Division Court, shall be issued against both the lands and tenements and the goods and chattels of the execution debtor. 57 V., c. 26, s. 1; 58 V., c. 14, s. 1.

Writs may be renewed every three years.

9. It shall not be necessary to renew from year to year any writ of execution now in the hands of a sheriff or hereafter issued, but all such writs of execution shall remain in force for a period of three years, or until satisfied in the meantime by payment or withdrawal by the party prosecuting the same, and every such writ may be renewed from time to time for periods of three years in the same manner as a writ of execution was formerly renewed from year to year. 57 V., c. 26, s. 2; 58 V., c. 13, s. 31, part.

WHAT MAY BE SEIZED UNDER EXECUTION AGAINST GOODS.

Stocks in certain Companies.

Shares and dividends, etc., liable to seizure.

10. All shares and dividends of stockholders or any equity of redemption in any such shares or dividends in any incorporated bank or other incorporated company in Ontario, having transferable joint stock, shall be held to be personal property, and shall be liable to *bona fide* creditors for debts, and may be attached, seized and sold under execution in like manner as other personal property. R. S. O. 1887, c. 64, s. 9; 58 V., c. 13, s. 32.

Copy of execution to be served on the company with notice of seizure. Stock not to be transferred while under seizure; and sale under seizure to include all dividends, etc.

11. The sheriff or other officer to whom an execution is directed, on being informed on behalf of the plaintiff that the defendant has such stock, and on being required to seize the same, shall forthwith serve a copy of the execution on the company with a notice that all the shares which the defendant has in the stock of the company are seized accordingly; and from the time of service no transfer of the stock by the defendant shall be valid, unless and until the seizure has been discharged; and every seizure, and sale made under the

same, shall include all dividends, premiums, bonuses, or other pecuniary profits upon the shares seized, and the same shall not after notice as aforesaid, be paid by the company to any one, except the person to whom the shares have been sold by the officer, unless and until the seizure is discharged, on pain of paying the same twice. R. S. O. 1887, c. 64, s. 10.

12. If the company has more than one place where service of process may be made upon them, and there is some place where transfers of stock may be notified to and entered by the company so as to be valid as regards the company, or where dividends or profits as aforesaid on stock may be paid other than the place where service of such notice has been made, the notice shall not affect any transfer or payment of dividends or profits duly made and entered at any such other place, so as to subject the company to pay twice, or to affect the rights of any *bona fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of service by post from the place where it has been made to such other place, which notice it shall be the duty of the company to transmit by post. R. S. O. 1887, c. 64, s. 11.

Provisions for the case of the company having more than one place where service of process may be legally made upon them or transfers notified.

13. The shares in the said stock shall be held to be personal property, found in the place where notice of the seizure thereof is served as aforesaid. R. S. O. 1887, c. 64, s. 12.

Shares to be personal property at the place where notice of seizure served.

14. Where any such share is sold under an execution, the officer shall, within ten days after sale, serve upon the company at some place where service of process may be made, an attested copy of the writ of execution, with his certificate endorsed thereon, certifying the name of the purchaser who shall thereafter be the holder of the share, and who shall have the same rights, and be under the same obligations as if he had duly purchased the share from the proprietor thereof; and the proper officer of the company shall enter such sale as a transfer in the manner by law provided. R. S. O. 1887, c. 64, s. 13.

Mode of proceeding after sale.

15. Nothing in this Act shall be construed to impair the effect of any remedy which the plaintiff might, without this Act, have had against any shares of such stock as aforesaid, by attachment or otherwise, and the provisions of the next preceding four sections shall apply to such remedy in so far as they can be applied thereto. R. S. O. 1887, c. 64, s. 14.

Saving of all other remedies.

16. All corporations, established for the purpose of trade or profit, or for the construction of any work, or for any purpose from which revenue is intended to be derived, shall be deemed incorporated companies for the purpose of the next preceding six sections of this Act, though they are not called companies in the Act or charter incorporating them. R. S. O. 1887, c. 64, s. 15.

What shall be deemed incorporated companies.

Equity of redemption in chattels saleable.

The interest of a mortgagor in goods mortgaged may be sold in execution.

17.—(1) Under an execution against goods, the sheriff or other officer to whom the same is directed may seize and sell the interest or equity of redemption in any goods or chattels, including leasehold interests in any lands, of the party against whom the writ has issued, and such sale shall convey whatever interest the mortgagor had in the goods and chattels at the time of the seizure. R. S. O. 1887, c. 64, s. 16.

(2) The words "goods and chattels" in this section shall include shares and dividends of stockholders in any incorporated bank or other incorporated company in Ontario having transferable joint stock. 58 V., c. 13, s. 32, part.

Money and Securities.

Sheriff may seize money and securities for money.

18. The sheriff or other officer having the execution of a writ against goods sued out of the High Court, or out of a County Court, shall seize any money or bank notes (including any surplus of a former execution against the debtor), and any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties, or other securities for money, belonging to the person against whose effects the writ of execution has issued, and subject to the provisions of *The Creditors' Relief Act*, shall pay or deliver to the party who sued out the execution, the money or bank notes so seized, or a sufficient part thereof, and shall hold such cheques, bills of exchange, promissory notes, bonds, specialties or other securities for money, as security for the amount by the writ and endorsement thereon directed to be levied, or so much thereof as has not been otherwise levied or raised, and the sheriff or other officer may sue in his own name for the recovery of the sums secured thereby, when the time of payment thereof has arrived. R. S. O. 1887, c. 64, s. 17.

[As to proceedings under Division Court Executions, see also *Cap. 60, secs. 218-241.*]

Payment to sheriff to be valid.

19. The payment to the sheriff or other officer by the party liable on such cheque, bill of exchange, promissory note, bond, specialty or other security, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution (as the case may be), from his liability thereon. R. S. O. 1887, c. 64, s. 18.

Sheriff to pay over proceeds.

20. Subject to the provisions of *The Creditors' Relief Act*, the sheriff or other officer shall pay over to the party who sued out the writ the money so recovered, or a sufficient sum to discharge the amount by the writ directed to be levied, and if, after satisfaction of the amount together with sheriff's poundage

Rev. Stat. c. 78.

and expenses, a surplus remains in the hands of the sheriff or other officer, the same shall be paid to the party against whom the writ issued. R. S. O. 1887, c. 64, s. 19.

Surplus to be paid to the execution debtor.

Security to Sheriffs, etc.

21. No sheriff or other officer shall be bound to sue any party liable upon such cheque, bill of exchange, promissory note, bond, specialty or other security, unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff or officer from all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof; and the expenses of the bond may be deducted out of any money recovered in the action. R. S. O. 1887, c. 64, s. 20.

Sheriff not bound to sue until indemnified.

22.—(1) A sheriff shall not without written instructions and a bond, as hereinafter mentioned, be obliged to seize property which is in the possession of a third party claiming the same, and not in the possession of the debtor against whose property the writ or other process was issued.

Instructions and indemnity to sheriff on seizing goods claimed by third parties.

(2) The written instructions to be delivered to the sheriff shall specify the goods and chattels in such a way as to enable the sheriff to identify the same as the goods and chattels intended.

(3) The bond is to be a bond of indemnity to the sheriff and his assigns, with two sufficient sureties, who are to justify in double the supposed value of the property, such supposed value to be stated in an affidavit by the creditor or his solicitor, or agent and attached to the bond.

(4) The bond is to be assignable to the claimant, and is to be conditioned that the parties executing the same will be liable for the costs and expenses which the sheriff or claimant may be put to by the seizure or subsequent dealings with the property, including the interpleader suit (if any), and which he does not recover from other persons who ought to pay the same.

(5) In case the sheriff is not satisfied with the bond offered the matter in difference is to be determined and disposed of by a Judge.

(6) Damages claimable shall be the same as before the passing of this Act.

Damages.

(7) Nothing in this section shall be construed to limit the right of the sheriff to apply for relief by Interpleader under the present law and the practice of the Courts. 56 V., c. 5, s. 11.

Right of sheriff to interpleader not affected.

23.—(1) The word "plaintiff" or the word "creditor" in this section includes any person named in a writ of execution as the person for whom the levy is to be made. The word "defendant" or the word "debtor" includes any person of whose property the money is directed to be levied. 56 V., c. 5, s. 1.

Interpretation "plaintiff" "creditor" "defendant" "debtor."

Taking money
secured by
mortgage
under execu-
tion.

(2) In case a sheriff to whom a writ of execution is addressed is informed on behalf of the plaintiff, that the defendant is a mortgagee of land and that the mortgage is registered, or that the defendant is entitled to receive a sum of money charged upon lands by virtue of any registered instrument, and in case the sheriff is required on behalf of the plaintiff to seize the mortgage or charge, and is furnished in writing with the information necessary to enable him to give the notice hereinafter mentioned, he shall, upon payment of the proper fees, forthwith deliver or transmit to the Registrar or Master of Titles in whose office the mortgage or other instrument is registered, a notice in the form or to the effect following:

Form of
sheriff's notice
to registrar.

To the Registrar of (or as the case may be)
By virtue of a writ of *fieri facias* to me directed and issued out of the High Court of Justice at (or the County Court of the County of), whereby I am commanded to levy against the goods and chattels of *A. B.* the sum of \$, for debt, and \$ for costs lately adjudged to be paid by the said *A. B.* to *C. D.*, besides the costs of executions, I have this day seized and taken in execution all the estate, right, title and interest of the said *A. B.* in a certain mortgage made by *X. Y.* to the said *A. B.*, and which bears date on the day of , and was registered in the registry office for the County of on the day of *A. D.*, as number (or the said mortgage or other instrument may be described in any other manner by reference to dates, parties and the land covered as will enable the notice to be recorded upon the lands therein described) and in the moneys secured thereby, and this notice is given for the purpose of binding the interests of the said *A. B.* under sections 23 to 28 of *The Execution Act*.

Dated this day of

(Signed) *M. N.*,
Sheriff of the County of

56 V., c. 5, s. 2; 60 V., c. 14, s. 90.

Effect of regis-
tration of
sheriff's notice
to registrar.

(3) Upon registration of the said notice, the interest of the execution debtor in the mortgage or other instrument, and in the lands therein described, and in the moneys thereby secured and in all covenants and stipulations for the securing of payment thereof, shall be bound by the execution, and such registration shall be deemed to be notice of the said execution and seizure to all persons who may thereafter in any way acquire any interest in the mortgage, lands, moneys, or covenants; and the rights of the sheriff and execution creditor shall have priority over the rights of all such persons, subject, as regards the mortgagor or person liable to pay the money secured by the mortgage or charge, to the next section of this Act.
56 V., c. 5, s. 3.

Notice to
mortgagor.

24.—(1) A notice similar to the notice mentioned in the next preceding section or containing the like information shall also be served upon the mortgagor or upon the person who is liable to pay the moneys secured by the registered instrument; and upon such service the person served shall pay to the sheriff all moneys payable or which may become payable to the execution debtor.

(2) Service of such notice may be made personally, or by leaving the same at the dwelling-house of the person to be served with a grown up person dwelling there, or by registered letter to the proper address of the person to be served.

Mode of effecting service.

(3) Any payment made after service of the notice or after actual knowledge of the seizure shall be void as against the sheriff and execution creditor. 56 V., c. 5, s. 4.

Payments made after notice.

25. In addition to the remedies herein provided, the sheriff may bring an action on such mortgage or other instrument for the sale or foreclosure of the lands covered by the mortgage or other instrument, and shall be entitled to a bond of indemnity as in the cases provided for in section 21. 56 V., c. 5, s. 5.

Sheriff enforcing mortgage.

26. Upon a writ of execution, notice whereof is registered under section 23, expiring or being satisfied, set aside or withdrawn, a certificate of such fact by the sheriff or the execution creditor, or the order to set aside, as the case may be, may be registered, and thereupon such seizure shall be vacated and deemed at an end. 56 V., c. 5, s. 6.

Expiry or setting aside of execution after registration of notice.

27. The order of Court or the certificate of the sheriff shall not require verification. The certificate of the execution creditor shall be verified by the oath of a subscribing witness as in the case of other instruments affecting lands. 56 V., c. 5, s. 7.

Verification order and certificates.

28. For the registration of any notice under section 23, or of a certificate under section 26, the registrar or master shall be entitled to a fee of 50 cents; and for every notice of seizure under section 23 of this Act, the sheriff shall be entitled to a fee of \$1. 56 V., c. 5, s. 8.

Fees of registrar and sheriff.

WHAT MAY BE SOLD UNDER EXECUTION AGAINST LANDS.

Equity of Redemption.

29. Wherever the word "mortgagor" occurs in the next succeeding three sections, it shall be read and construed as if the words "his heirs, executors, administrators or assigns, or person having the equity of redemption," were inserted immediately after the word "mortgagor." R. S. O. 1887, c. 64, s. 21.

Interpretation.

30.—(1) The sheriff or other officer to whom a writ of execution against the lands and tenements of a mortgagor of real estate is directed, may seize, sell and convey all the interest of the mortgagor in the mortgaged lands and tenements.

The interest of a mortgagor in lands mortgaged may be sold on execution.

(2) The equity of redemption in a freehold mortgage of real estate shall be saleable under an execution against the lands and tenements of the owner of the equity of redemption in his

lifetime, or in the hands of his executors or administrators after his death, subject to the mortgage, in the same manner as lands and tenements can now be sold under an execution. R. S. O. 1887, c. 64, s. 22.

Effect of sale.

31. The effect of the seizure or taking in execution, sale and conveyance, of mortgaged lands and tenements, shall be to vest in the purchaser, his heirs and assigns, all the interest of the mortgagor therein at the time the writ was placed in the hands of the sheriff or other officer to whom the same is directed, as well as at the time of the sale, and to vest in the purchaser, his heirs and assigns, the same rights as the mortgagor would have had if the sale had not taken place; and the purchaser, his heirs or assigns, may pay, remove or satisfy any mortgage, charge or lien which at the time of the sale existed upon the lands or tenements so sold, in like manner as the mortgagor might have done; and thereupon the purchaser, his heirs and assigns, shall acquire the same estate, right and title as the mortgagor would have acquired in case the payment, removal or satisfaction had been effected by the mortgagor; and on payment of the mortgage money to the mortgagee by the purchaser, his heirs or assigns, the mortgagee, his heirs or assigns, shall, if required, give to the purchaser, his heirs or assigns, at his or their charge, a certificate of payment or satisfaction of the mortgage, which certificate may be in the following form, that is to say:

To the Registrar of the County of

I, *A. B.*, of _____, do certify that *C. D.*, of _____, who has become the purchaser of the interest of *E. F.*, of _____ has satisfied all money due upon a certain mortgage made by the said *E. F.* to me, bearing date the _____ day of _____ 18____ and registered at _____ of the clock in the forenoon (as the case may be) of the _____ day of _____, in the same year (or as the case may be), and that such mortgage is therefore discharged.
As witness my hand, this _____ day of _____, 18____.

(Signed) *A. B.*

E. H., of _____, }
G. H., of _____, } Witnesses.

And such certificate shall be of the like effect, and shall be acted upon by registrars and others to the same extent as if the same had been given to the mortgagor. R. S. O. 1887, c. 64, s. 23.

Mortgagee may become purchaser at sheriff's sale.

32. A mortgagee of lands and tenements so sold, or the heirs or assigns of the mortgagee (being or not being plaintiff or defendant in the judgment whereon the writ of execution under which the sale takes place has issued), may be the purchaser at the sale, and shall acquire the same estate, interest and rights thereby as any other purchaser; but in the event of the mortgagee becoming the purchaser, he shall give to the mortgagor a release of the mortgage debt; and if another person becomes

the purchaser, and if the mortgagee enforces payment of the mortgage debt against the mortgagor, then the purchaser shall repay the debt and interest to the mortgagor, and in default of payment thereof within one month after demand, the mortgagor may recover the debt and interest from the purchaser, and shall have a charge therefor upon the mortgaged lands. R. S. O. 1887, c. 64, s. 24.

Contingent Interests.

33.—(1) Any estate, right, title or interest in lands which, under section 8 of *The Act respecting the Transfer of Real Property*, may be conveyed or assigned by any person, or over which he has any disposing power which he may, without the assent of any other person, exercise for his own benefit, shall be liable to seizure and sale under execution against such person, in like manner and on like conditions as lands are by law liable to seizure and sale under execution, and the sheriff selling the same may convey and assign the same to the purchaser in the same manner and with the same effect as the person might himself have done.

Any interest which may be conveyed, etc., under Rev. Stat. c. 119, s. 8, to be liable to execution.

(2) The right of a married woman to dower shall not be deemed seizable or saleable under execution before the death of her husband. R. S. O. 1887, c. 64, s. 25.

Except inchoate right of dower.

CHURCH PEWS AND SITTINGS.

34.—(1) The interest of any person lawfully derived by deed, lease or license in writing from the wardens or other authorities of any church in a pew or sitting in such church, if such interest is lawfully assignable by the holder thereof, may be sold under judgment and execution at the suit of the said churchwardens or trustees of such church for arrears of any rent or other charge to which such sitting or pew is subject, or which the holder thereof may have agreed to pay, or for which he may be lawfully liable, or at the suit of any creditor of such holder, and the churchwardens or other trustees of any such church may become purchasers at such sale on behalf of the church, and may relet or sell the right so acquired.

Interest in pew or sitting may be taken in execution and sold.

(2) The sheriff may execute a deed to the purchaser of the interest so sold under execution, and such deed shall be effectual to the purchaser; and the churchwardens or trustees shall, on production of such deed, give effect to the same to the extent of the interest so sold, upon payment of any arrears of rent or charges then due.

Deed.

(3) Such sale shall be subject to any continuing rent or charge on such pew or sitting previously stipulated or imposed, and shall not prejudice the right of the vestry or churchwardens or congregations or trustees to impose increased rent

Subject to rent, etc.

3 V., c. 74.

or charges on such pew or sitting pursuant to *The Church Temporalities Act*, or any other law or custom. 60 V., c. 18, s. 1.

SALES AGAINST EXECUTORS.

Interest in real estate to be seizable on a judgment against an executor.

35. The title and interest of a testator or intestate in real estate may be seized and sold under a judgment and execution recovered by a creditor of the testator or intestate, against his executor or administrator, in the same manner and under the same process that the same could be sold under a judgment and execution against the deceased, if living. R. S. O. 1887, c. 64, s. 26; c. 110, s. 14.

CREDITORS' RELIEF ACT.

R. S. O. 1897, CAP. 78.

An Act to prevent Priority among Execution Creditors.

SHORT TITLE, s. 1.	STATEMENT TO BE KEPT IN SHERIFF'S
INTERPRETATION, s. 2.	OFFICE PENDING DISTRIBUTION,
NO PRIORITY AMONG EXECUTION	s. 30.
CREDITORS, s. 3.	SHERIFF TO GIVE INFORMATION AS TO
NOTICE TO BE ENTERED BY SHERIFF	ESTATE, s. 31.
AFTER LEVY, s. 4.	DISTRIBUTION BY SHERIFF WHERE
DISTRIBUTION OF MONEY LEVIED, ss.	AMOUNT LEVIED IS INSUFFICIENT
4, 5, 22, 32.	TO MEET ALL CLAIMS, s. 32.
PROCEEDINGS WHERE DEBTOR ALLOWS	DIRECTIONS BY JUDGE TO AVOID UN-
EXECUTIONS TO REMAIN UNSATIS-	NECESSARY PARTIES AND TRIALS,
FIED, ss. 6-21.	s. 33.
PROCEDURE BY SHERIFF ON ATTACH-	DIRECTION BY JUDGE TO SHERIFF
MENT UNDER ABSCONDING DEBT-	WHERE CLAIM IS DISPUTED, s. 34.
ORS' ACT, s. 22.	DECISIONS TO BIND ALL CREDITORS,
COSTS OF CLAIMANT, s. 23.	s. 35.
PAYMENT TO SHERIFF OF FUND IN	SHERIFF TO DEPOSIT MONEYS IN BANK,
COURT, s. 24.	s. 36.
SHERIFF MAY OBTAIN GOODS IN HANDS	ATTACHMENT OF DEBTS OWING TO
OF DIVISION COURT BAILIFF,	EXECUTION DEBTOR, s. 37.
s. 25.	APPEAL, s. 38.
APPORTIONMENT WHERE AMOUNTS	POWERS OF JUDGE, s. 39.
LEVIED INSUFFICIENT TO PAY ALL	DEFECTS OF FORM IN PROCEEDINGS,
CLAIMS, s. 26.	s. 40.
LEVYING INTEREST AND COSTS, s. 27.	FEES PAYABLE TO THE CROWN, s. 41.
SHERIFF'S POUNDAGE, s. 28.	ACT NOT TO INTERFERE WITH THE IN-
MONEY MADE ON ONE WRIT TO BE	SOLVENT LAWS, s. 42.
CONSIDERED MADE ON ALL EN-	
TITLED TO BENEFIT THEREOF,	
s. 29.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

1. This Act may be cited as "*The Creditors' Relief Act*," Short title. R. S. O. 1887, c. 65, s. 1.

2. In this Act the word "sheriff" shall include coroners; the word "Judge" shall mean the Judge of the County Court of the county or district in which the claims are filed, and shall include a Junior or Deputy-Judge, or a Judge of another county authorized to act for the Judge of the County Court in which the claims are filed. If a Judge is disqualified to act in a matter arising under this Act, the Judge of the County Court of an adjoining county shall have jurisdiction to act in his place. R. S. O. 1887, c. 65, s. 2.

Interpretation.
"Sheriff."
"Judge."

3. Subject to the provisions hereinafter contained, there shall be no priority among creditors by execution from the High Court or County Courts. R. S. O. 1887, c. 65, s. 3.

No priority among execution creditors.

4.—(1) In case a sheriff levies money upon an execution against the property of a debtor, he shall forthwith enter in a book to be kept in his office, open to public inspection without charge, a notice stating that such levy has been made, and the amount thereof; and the money shall thereafter be distributed ratably, amongst all execution creditors and other creditors whose writs, or certificates given under this Act, were in the sheriff's hands at the time of the levy, or who shall deliver their writs or certificates to the said sheriff within one month from the entry of notice; subject, however, to the provisions hereinafter contained as to the retention of dividends in the case of contested claims, and to the payment of the costs of the creditor under whose writ the amount was made.

Sheriff, after levy, to enter notice thereof.

Distribution.

(2) The notice shall state the day upon which it was entered and may be in Form A given in the Schedule hereto. R. S. O. 1887, c. 65, s. 4 (1, 2).

Form of notice.

(3) The two preceding subsections shall not apply to any moneys received by a sheriff as the proceeds of a sale of property by him under an interpleader order; but upon the determination of the interpleader issue in favor of the creditors, the moneys whether in the sheriff's hands or in Court pending the trial of the issue, shall be distributed by the sheriff among the creditors contesting the adverse claim. 56 V., c. 5, s. 12 (1).

Moneys realized on sale under interpleader order.

(4) Where proceedings are taken by the sheriff or other officer for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute *pro rata* (in proportion to the amount of their executions or certificates) to the expense of contesting any

Rights of creditors in case of interpleader proceedings.

adverse claim, shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions or certificates. The Court or Judge may direct that one creditor shall have the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between solicitor and client shall be a first charge upon the moneys or goods which may be found by the proceedings to be applicable upon the executions or certificates. R. S. O. 1887, c. 65, s. 4 (3).

Meaning of
"adverse
claim."

(5) "Adverse claim" in the next preceding subsection shall mean any claim to contest which an interpleader issue is directed; and upon any interpleader application the Court or Judge shall have a discretion to allow to other creditors who desire to take part in the contest, a reasonable time in which to place their executions in the sheriff's hands, upon such terms as to costs and otherwise as may be just and reasonable. 56 V., c. 5, s. 12 (2).

Provisions in
case of subse-
quent levy.

(6) In case the sheriff shall, subsequently to the entry of the notice, but within the month, levy a further amount from the property of a debtor, the same shall be dealt with as if such amount had been levied prior to the entry of the notice, but if after the month a further amount is levied a new notice shall be entered; and the distribution to be made of the amount so levied and of the further amount levied within a month of the entry of the last mentioned notice shall be governed by the entry thereof in accordance with the foregoing provisions of this section; and so on from time to time. R. S. O. 1887, c. 65, s. 4 (4).

No preference
in respect of
writ against
goods or lands.

(7) In distributing money under this section creditors who have executions against goods or lands only or against goods and lands shall be entitled to share ratably with all others any moneys realized under execution against either goods or lands or against both. 51 V., c. 11, s. 2. See 57 V., c. 26, s. 1.

[As to rights of employees of execution debtors in respect of wages, see Cap. 156, Sec. 4.]

Certain credi-
tors excluded.

5. No creditor shall be entitled to share in the distribution of money levied from the property of a debtor unless either by the delivery of a writ of execution, or otherwise under this Act, he has established a claim against the debtor either alone or jointly with some other person. R. S. O. 1887, c. 65, s. 5.

Proceedings
where debtor
allows execu-
tions to remain
unsatisfied.

6. If a debtor permits an execution issued against him under which any of his goods or chattels are seized by a sheriff, to remain unsatisfied in the sheriff's hands till within two days of the time fixed by the sheriff for the sale thereof, or for twenty days after the seizure, or allows an execution against his lands to remain unsatisfied for nine months after it is placed in the sheriff's hands, the proceedings hereinafter authorized may be

taken by other creditors as claimants in respect of debts which are overdue. R. S. O. 1887, c. 65, s. 6.

7.—(1) An affidavit to the effect of Form B, in the Schedule to this Act, of the debt and particulars thereof, may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts. Prior to or simultaneously with the filing with the clerk of the County Court of the affidavit, there shall be filed with the clerk the certificate of the sheriff, or an affidavit, shewing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Act. Affidavit by creditor.

(2) The claimant is to serve on the debtor one of the duplicates, and a notice stating that the claimant intends to file the other duplicate with the clerk of the County Court by reason of there being in the sheriff's hands a writ of execution against the goods and chattels (or lands) of the debtor, and that the claimant intends to call on the sheriff to levy the said debt out of the property of the debtor under the authority of this Act; which notice is to contain the other particulars, shown in the Form C, given in the Schedule to this Act. The notice may be either attached to the affidavit served, or endorsed thereon; where the affidavit is to be served out of Ontario the Judge shall limit the time at which the next step may be taken by the claimant as hereinafter provided. R. S. O. 1887, c. 65, s. 7. Service on debtor.

8.—(1) An execution debtor may give notice in writing to the sheriff that any claims to be served upon him may be served upon any solicitor in the Province, whose name and address shall be given, or by mailing the same to an address stated in the notice: the sheriff shall thereupon enter the notice in the said book in section 4 mentioned, and so long as any execution, which was in the sheriff's hands at the time the notice was given shall remain in his hands, shall repeat such entry immediately below any notice (Form A) given in respect of the execution, unless the notice be revoked in writing, in which case the entry or entries thereof shall be marked "revoked." Notice by debtor of address for service.

(2) So long as the notice is not revoked in manner aforesaid an affidavit of claim and accompanying notice under this Act, may, where a solicitor is named, be served upon an execution debtor by serving the same upon the solicitor in accordance with this Act, or if mailing is required. then by mailing the same, enclosed in an envelope, prepaid and registered, to the address given in the notice. Service of affidavit of claim with notice.

(3) In case the notice (Form C) served on a debtor does not state some place in or within three miles of the county-town of the county in which the proceedings are being taken, at which service may be made upon the claimant, or does not give the Service on claimant where no address given.

name and address of some solicitor in the Province who may be served on the claimant's behalf, service of any notice, paper or document requiring service may be made upon the claimant by mailing the same, prepaid and registered, enclosed in an envelope addressed to the claimant at the county-town.

Affidavit to be filed with clerk of county court.

(4) The claimant shall file with the clerk of the County Court of the County, the sheriff of which has the execution, one of the said duplicate affidavits of claim, and a copy of the said notice, with an affidavit of due service; which affidavit may be in the Form D.

Mode of service.

(5) The copy of affidavit and the notice shall, where practicable, be personally served upon the debtor; but if it be made to appear to a Judge that the claimant is unable to effect prompt personal service, the Judge may order substituted or other service, or may appoint some act to be done which shall be deemed sufficient service. R. S. O. 1887, c. 65, s. 8.

Certificate to be given to creditor where claim not disputed.

9.—(1) If the claim is not contested in manner hereinafter mentioned, the County Court Clerk—after ten days from the day of personal service, or service under subsection 2 of section 8, or within the time mentioned in the order (as the case may be), on application and the filing with him of proof of personal service upon the debtor of an affidavit and notice in accordance with this Act, or proof of compliance with a Judge's order in that behalf, or upon the determination of the dispute in favour of the claimant, either in whole or in part—shall deliver to the creditor, or any one on his behalf, a certificate to the effect of Form E, in the Schedule hereto; and in case the claim is only disputed as to a part, the creditor may elect, by a writing filed with the clerk, to abandon such part and obtain a certificate as to the residue.

Effect of certificate.

(2) The certificate shall be delivered to the sheriff, and thereby from the time of the delivery the claimant shall be deemed to be an execution creditor within the meaning of this Act, and to be entitled to share in whatever is made under the executions of creditors in the sheriff's hands, as if he had delivered to the sheriff an execution against lands or goods, or both, as the case may be, and the certificate shall in like manner bind the lands and goods of the debtor; subject, however, to the debt being afterwards disputed by a creditor as hereinafter provided.

Certificate an execution for interpleader purposes.

(3) A certificate under this Act shall in interpleader proceedings be deemed to be an execution.

Address for service to be endorsed on certificate.

(4) If the certificate is obtained by a solicitor, the name and place of abode of the solicitor shall be endorsed thereon; and if the certificate is sued out by the claimant in person there shall be endorsed thereon a statement of some place in, or within three miles of, the county town of the county in which the

proceedings are being taken, at which service may be made upon the claimant; and, in default thereof, service of any notice, paper or document requiring service, may be made upon the claimant by mailing the same, prepaid and registered, enclosed in an envelope addressed to the claimant at the county town.

(5) On receiving the certificate the sheriff shall make a further seizure of the lands and tenements, or goods and chattels, as the case may be (if any), of the debtor to the amount of the debt so claimed, and the sheriff's fees; and so on from time to time, in case more certificates are received after the further seizure so made. R. S. O. 1887, c. 65, s. 9.

On receipt of certificate sheriff to make further levy.

(6) A certificate issued under this Act shall remain in force for three years from the date thereof and no longer, unless renewed, but such certificate may from time to time be renewed in the same manner as a writ of execution, but notwithstanding the expiry of a writ or certificate prior to the termination of the month during which a notice of money having been made is under this Act required to be posted, the said writ and certificate shall, as to any money levied during such month, be deemed to be in full force and effect. R. S. O. 1887, c. 65, s. 29 (2); 60 V., c. 14, s. 91.

Time certificate to remain in force.

10.—(1) The claim may be contested by the execution debtor or by a creditor interested in contesting the same.

Disputing claim.

(2) If the debtor contests the claim, he shall for that purpose file with the clerk an affidavit stating that he has a good defence to the claim, or to a specified part of the claim on the merits, but the Judge may dispense with the affidavit on terms or otherwise.

Affidavit of debtor.

(3) The debtor shall file the affidavit and serve upon the claimant a copy thereof within ten days after the personal service, or service under subsection of 2 section 8, upon him of the affidavit of claim and the notice, or within the time which the Judge by an order dispensing with personal service directed, or within any further time which the Judge may allow; the affidavit shall have endorsed thereon a statement of some place in, or within three miles of, the county town of the county in which the proceedings are being taken, at which service may be made upon the debtor, or the address of some solicitor in the Province who may be served on the debtor's behalf, and in default thereof, service of any notice, paper, or document requiring service, may be made upon the debtor by mailing the same, prepaid and registered, enclosed in an envelope addressed to the debtor at such county town.

Filing and service of affidavit.

Address for service.

(4) If the contest is by a creditor, he shall for that purpose file with the clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith

Creditor disputing claim.

due from the debtor to the claimant; but the Judge may dispense with the affidavit on terms or otherwise.

Time for filing affidavit.

(5) Such affidavit by a creditor may be so filed, and a certificate thereof delivered to the sheriff, at any time before distribution is made. R. S. O. 1887, c. 65, s. 10.

Distribution by sheriff in case of contestation.

11.—(1) In case of a claim being contested by a creditor after a certificate has been placed in the sheriff's hands, the sheriff, unless the Judge otherwise orders, shall proceed and levy as if such contestation had not been made, and the sheriff shall, until the determination of the contestation, retain in the bank the amount which would be apportionable to the claim if valid, and he shall, as soon after the expiry of the said month as practicable, distribute the residue of the money made amongst those entitled.

Proceedings to enforce claim.

(2) The claimant whose claim is contested may apply to a Judge for an order allowing his claim and determining the amount; and in case he does not make such application within eight days of his receiving notice of the contestation (or within such further time, if any, as the Judge upon the delay being reasonably accounted for may allow), he shall be taken to have abandoned his claim; if the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contest. R. S. O. 1887, c. 65, s. 11.

Mode of determining questions in dispute.

12.—(1) The Judge may determine any questions in dispute in a summary manner, or may direct an action or issue, in any Court or county, for the trial thereof, and may make such order as to the costs of the proceedings as may be just.

Where sum in dispute is over \$400.

(2) Where there is a dispute as to material facts, and the sum in controversy appears to be over \$400, exclusive of costs, the Judge shall direct the trial to be in the High Court, and may name the county in which the trial is to take place, subject to any order which the High Court or a Judge thereof may see fit to make in that behalf. In case an issue is directed it shall be tried in all respects as if it had been an action in the Court in which it was ordered to be tried. R. S. O. 1887, c. 65, s. 12.

Examination of parties.

13. The same proceedings may be had for the examination of parties or others, either before or at the trial, as may be taken in an ordinary action, and such proceedings may also be taken prior to the application to the Judge, and as a foundation therefor. R. S. O. 1887, c. 65, s. 13.

Proceedings by creditor who has obtained a Division Court judgment.

14. A creditor who has recovered a judgment in a Division Court against the debtor may serve upon the sheriff a memorandum of the amount of his judgment and of the costs to which he is entitled, under the hand of the clerk and the seal

of the Division Court; and the memorandum so served shall have the same effect for the purposes of this Act as if the creditor had delivered to the sheriff a writ of execution directed to the said sheriff from a County Court. R. S. O. 1887, c. 65, s. 14.

15. Where a creditor has taken in one county the prescribed proceedings in respect of his claim, and desires to establish his claim for the purposes of this Act in another county also, he may do so by obtaining from the said County Court Clerk another certificate (Form E), and delivering the same to the sheriff of such other county, and the delivery of the certificate to the sheriff shall have the same effect for the purposes of this Act in the county in which the same takes place, from the day of the delivery, as if a new notice and affidavit of claim had been served for the county and other proceedings had in respect thereof under the previous provisions of this Act. R. S. O. 1887, c. 65, s. 15.

Establishing claim in another county.

16. A creditor, entitled to a certificate from the County Court Clerk, may sue out a writ of execution into any county in the same manner as on an ordinary judgment. R. S. O. 1887, c. 65, s. 16.

Writs may be sued out into any county.

17. In case a claim is contested in one county, the decision thereon shall, as between the parties to it, determine the amount of the claim for the purposes of this Act in all other counties in which the claim is filed, and the certificate of the Clerk of the County Court of the county in which the contest has taken place, of the result thereof, shall be *prima facie* proof of the decision. A certificate shall, upon payment of a fee of fifty cents, be granted to any party to the proceedings who applies therefor. R. S. O. 1887, c. 65, s. 17.

Decision in one county binding in others.

18.—(1) The Clerk of the County Court shall keep a book in which, before granting a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate under this Act;

Clerk of county court to keep book of record.

- (a) The name of every claimant, and of every debtor;
- (b) The date of entry of judgment;
- (c) The amount of debt, exclusive of costs;
- (d) The amount of costs;
- (e) If the proceedings have been set aside, this fact, and shortly the reason therefor.

(2) The entry shall (subject to the provisions of this Act) be an award of judgment for the debt and costs, and shall have the same effect as an entry of judgment for non-appearance to

Effect of entry.

Index. a specially endorsed writ. The clerk shall index the entries in the book alphabetically under the name of every debtor.

Copy of entry evidence. (3) In case the original papers happen to be lost or destroyed, a copy of the entry in the book shall be evidence of all matters therein set forth. R. S. O. 1887, c. 65, s. 18.

Granting time to debtor. **19.**—(1) With respect to claims, the Judge, before or after a certificate is issued by the clerk under this Act, or delivered to the sheriff, may, on the application of the debtor, and notice to a claimant, give to the debtor further time to pay the claim where the Judge is of opinion that this can be done without injustice to the creditor, or may give to the debtor further time on terms which, in the opinion of the Judge, may be just. There may be successive orders for this purpose, but no claim shall be delayed by such orders for more than three months in all.

Proceeding subsection not to apply in certain cases. (2) This section shall not apply to creditors who have obtained judgment in the ordinary way; and the orders for time are not to prejudice executions obtained by such creditors such on judgments. R. S. O. 1887, c. 65, s. 19.

Payment by debtor before sale. **20.**—(1) In case the debtor, without any sale by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, and no other claim has been filed with the Clerk of the County Court, or in case all executions and claims in the sheriff's hands are withdrawn, and any claims served are paid or withdrawn, no notice shall be entered as required by section 4 of this Act, and no further proceedings shall be taken under this Act against the debtor by virtue of the executions having been in the sheriff's hands. R.S.O. 1887, c. 65, s. 20 (1); 51 V., c. 11, s. 3.

Effect of expiry or withdrawal of writs. (2) Save as aforesaid, after a certificate has been filed with the sheriff, the withdrawal or expiry of the writ, upon which the proceedings are founded, or any stay upon the writ, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the writ, shall not affect the proceedings to be taken under this Act, and except so far as the action taken in regard to the writ may affect the amount to be levied, the sheriff shall proceed and levy upon the goods or lands of the debtor, or both, as he would have proceeded had the writ or writs remained in his hands in full force to be executed, and he may also take the like proceedings as he would have been entitled to take had the writ been a writ of *venditioni exponas*. R. S. O. 1887, c. 65, s. 20 (2).

Application of moneys paid by debtor to sheriff voluntarily. (3) In case a debtor voluntarily, and without any sale by the sheriff, pays to the sheriff part of the amount owing, in respect of an execution or claim in the sheriff's hands, and there is at the time no other execution or claim in the sheriff's hands, the

sheriff shall apply the same on the execution or claim so in his hands, and section 4 of this Act shall not apply to the money so received by the sheriff. 52 V., c. 10. s. 7.

21. Where the address of a solicitor is given for service, and is not within three miles of the county town where the proceedings are carried on, service may be made upon him by serving his agent in Toronto. R. S. O. 1887, c. 65, s. 21.

Service on
Toronto agent.

22. If either before or after the receipt by the sheriff of an execution against the goods or lands of a debtor, a writ of attachment under *The Act respecting Absconding Debtors* is placed in the hands of the sheriff before he distributes the estate of the debtor, the sheriff shall realize the estate of the debtor, as provided by *The Act respecting Absconding Debtors*, but the same when so realized shall be distributed under the provisions of this Act. R. S. O. 1887, c. 65, s. 22.

Proceedings
on attach-
ment.

Rev. Stat.
c. 79.

23. The clerk shall ascertain and state in his said certificate, the amount of the costs to which the claimant is entitled as against the debtor. Such costs shall be the following:

Costs of claim-
ant.

1. For serving the affidavit of claim, to be allowed upon the scale of the High Court in the case of claims over \$400, and on the County Court scale in the case of claims exceeding \$200 and not exceeding \$400, and on the Division Court scale in the case of claims of \$200 and under;

2. If the claim does not exceed \$200 no greater fees are to be allowed for service of the claim and notice and mileage in respect thereof, than would be allowable to the Division Court bailiff for the service of a Division Court summons and mileage if the claim had been sued in the proper Division Court;

3. The fees paid to the County Court Clerk under this Act shall also to be allowed, which fees shall be the same as he is allowed for like proceedings in the County Court, unless the claim appears to be within the jurisdiction of the Division Court, in which case his fees shall be those allowed for like proceedings in the Division Court;

4. Where there is no contest the sum of \$5 for fees of a solicitor (if employed), unless the amount of the claim is within the jurisdiction of the Division Court, in which case the sum of \$2 only shall be allowed;

5. In case of a contest, such additional costs (if any) as the Judge may allow, to be taxed according to the scale of the High Court, County Courts, or Division Courts, according as the amount in dispute is within the jurisdiction of one or other of these Courts;

6. The costs of obtaining an order for substituted service or other similar order and of such service, or the costs of and

incidental to service out of the Province, in either case to be taxed by the clerk of the Court, and stated in his certificate aforesaid; if the claim is within the jurisdiction of the Division Court, only such a sum to be allowed for costs as would have been incurred in obtaining a judgment in the Division Court. R. S. O. 1887, c. 65, s. 23.

Payment to
sheriff of fund
in court.

24. Where there is in any Court a fund belonging to an execution debtor, or to which he is entitled, the same, or a sufficient part thereof to meet the claims in the sheriff's hands, may, on the application of the sheriff or any party interested, be paid over to the sheriff, and the same shall be deemed to be money levied under execution within the meaning of this Act. R. S. O. 1887, c. 65, s. 24.

Sheriff may
obtain goods
in hands of
division court
bailiff.

25.—(1) If the sheriff does not find property of a debtor leviable under the executions and claims in his hands sufficient to pay the same in full, and the sheriff finds goods and chattels in the hands of the bailiff of a Division Court under a writ of execution or attachment against the debtor, the sheriff shall demand and obtain the goods and chattels from the bailiff, who shall forthwith deliver the same to the sheriff, with a copy of every writ of execution in his hands against the debtor, and a memorandum shewing the amount to be levied thereunder, including the bailiff's fees so far as proceedings have been taken by him, and shewing the date upon which each writ was received by him.

Penalty if
bailiff fails to
deliver.

(2) In case the bailiff fails to deliver any of the goods, he shall pay double the value of the property retained, such double value to be recovered by the sheriff from the bailiff with costs of suit, and to be by the sheriff accounted for as part of the estate of the debtor. R. S. O. 1887, c. 65, s. 25 (1, 2).

Bailiff's fees
when goods in
his possession
are taken by
sheriff.

(3) The costs and disbursements of the bailiff shall be a first charge upon the goods, and shall be paid by the sheriff to the bailiff upon demand, after being taxed by the Division Court Clerk. 52 V., c. 12, s. 7, part.

Distribution.

(4) The sheriff shall distribute the proceeds among the creditors under the provisions of this Act, and the Division Court execution creditors shall be entitled, without further proof, to stand in the same position as execution creditors whose writs are in the sheriff's hands. R. S. O. 1887, c. 65, s. 25 (3).

Mode of appor-
tioning money
where amount
insufficient to
pay claims in
full.

26. Where the amount levied by the sheriff is not sufficient to pay the execution debts and other claims, with costs, in full, the money shall be applied to the payment ratably of such debts and costs of the creditors, after retaining the sheriff's fees, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under

whose execution the seizure and levy were made. R. S. O. 1887, c. 65, s. 26.

27. The sheriff, if directed by an endorsement upon the certificate shall, in addition to the amounts named in the certificate, levy interest thereon from the date of the certificate, or the date named in that behalf in the certificate, and also the sum of \$1.35 for the disbursements on every renewal of the certificate: and where such renewal is made upon the application of a solicitor, he shall levy the further sum of \$1.25 for the solicitor's costs on the renewal. R. S. O. 1887, c. 65, s. 27.

Levying interest and costs of renewing certificate.

28. Where money is to be distributed by a sheriff under this Act, the sheriff shall not be entitled to poundage as upon separate writs or claims, but only upon the net proceeds of the estate distributable by him, and at the same rate as if the whole amount had been payable upon one writ. R. S. O. 1887, c. 65, s. 28.

Sheriff's poundage.

29.—(1) Where money is made upon a writ, the same shall be taken for the purposes of the sheriff's return, and otherwise to be made upon all the writs or certificates entitled to the benefit thereof, and the sheriff shall, upon payment being made to the person entitled upon such writ or certificate, endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party issuing the writ, or by direction of the Court out of which the same issues, or of a Judge having the authority of a Judge of such Court, return the writ until the same has been fully satisfied, or unless the same has expired by effluxion of time, in which case the sheriff shall make a formal return of the amount made thereon. R. S. O. 1887, c. 65, s. 29 (1).

Money made on any writ to be considered as made on all writs entitled to benefit thereof.

Return.

(2). The like proceedings may be taken to compel payment by the sheriff of money payable in respect to an execution or other claim as can now be had to compel the return by the sheriff of a writ of execution. R. S. O. 1887, c. 65, s. 29 (3).

Compelling payment by sheriff.

30. The sheriff shall, pending the distribution of moneys levied, keep in the said book mentioned in section 4, in his office, a statement according to Form F in the Schedule hereto, shewing, in respect of any debtor of whose property money has been levied, the following particulars :

Statement to be kept in sheriff's office pending distribution.

- (a) The amounts levied and the dates of levy ;
- (b) Each execution, certificate, or order in his hands at the time of entering the notice Form A required by section 4, or subsequently received during the month, the amount thereof for debt and costs, and the date of receipt, and such statement shall be amended from time to time as an additional amount is levied, or a new execution, certificate or order is received. R.S.O. 1887, c. 65, s. 30.

Sheriff to give information as to estate of debtor.

31. The sheriff shall at all times without fee answer any reasonable question which he may be asked orally in respect to the estate of the debtor by a creditor, or any one acting upon behalf of a creditor, and shall facilitate the obtaining by him of full information as to the value of the estate, and the probable dividend to be realized therefrom in his county, or any other information in connection with the estate which the creditor may reasonably desire to obtain. R. S. O. 1887, c. 65, s. 31.

Distribution by sheriff where amount levied insufficient to meet all claims.

32. Where the money levied is insufficient to pay all claims in full, and the time has come for distributing the money levied, the sheriff may forthwith distribute the same as directed by this Act; or he may first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution of the amount levied, with the amount due to each for principal, interest and costs; the list to be arranged so as, among other things, to shew the amount going to each creditor under the provisions of this Act, and the total amount to be distributed; and the sheriff may deliver or send (prepaid and registered) by post to each creditor or his solicitor, a copy of the list, with the several particulars aforesaid; and in such case the further proceedings may be as follows:

Contestation.

1. If within eight days after all the said copies have been delivered or posted, or within any further time the Judge may allow, no objection is made as provided by this Act, the sheriff shall make distribution forthwith pursuant to such list;

2. In case an objection is made as provided by this Act, the sheriff shall forthwith distribute such an amount of the money made, and to such persons *pari passu*, as may not interfere with the effect of the objection in case the same should be allowed;

3. The sheriff may disregard objections which are frivolous, or manifestly insufficient to interfere with the distribution proposed, and distribute as if such objections had not been made;

4. Any person prejudiced by the proposed scheme of distribution, may contest the same in manner following, namely, by giving a notice in writing to the sheriff, stating therein distinctly his objection to the scheme (or any part thereof) and the grounds of objection, and by, at the same time, delivering to the sheriff an affidavit of previous service of a copy of the notice on the debtor and the creditors interested in resisting the objection, unless the Judge shall by order have dispensed with service, or on affidavit of service as the Judge shall have sanctioned;

5. The contestant shall, within eight days thereafter, apply upon notice to the Judge for an order adjudicating upon the matter in dispute; and otherwise the contestation shall be

taken to be abandoned. The notice may be in the Form G in the Schedule hereto;

6. The Judge may determine any questions in dispute in a summary manner, or may direct an issue or action for the trial thereof, either by a jury or otherwise and in any Court or county, and may make such order as to the costs of the proceedings as may be just. This subsection is subject to the same provisions as are set forth in subsection 2 of section 12 of this Act;

7. In the event of a claimant under a contestation being held not entitled, or only entitled to part of his claim, the money retained pending the contestation, or the portion as to which the claimant shall have failed, shall be distributed among the execution creditors and other creditors who would have been entitled thereto, as the same would have been distributed had the claim in respect thereof not been made. R. S. O. 1887, c. 65, s. 32.

33. In case several creditors are interested in a contestation, either for or against the same, the Judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as may be just, and he shall direct by whom and in what proportions any costs incurred in the contestation, or in any proceedings thereunder, shall be paid; and whether any and what costs shall be paid out of the money levied. R. S. O. 1887, c. 65, s. 33.

Directions by Judge to avoid unnecessary parties and trials.

34.—(1) The Judge may, if he sees fit, direct the sheriff to levy for an amount sufficient to cover a claim which is in dispute, or part thereof, or in case it appears to the Judge that it is improbable that the defendant has other sufficient property, he may order the sheriff to retain in his hands during the contestation the share which, if the claim is sustained, will be apportionable to it, or may make an order combining the orders above authorized, or such similar order as may be just.

Direction by Judge to sheriff where claims disputed.

(2) An order to levy under this section shall clothe the sheriff with the same authority as he would possess under a writ of execution, duly issued against the debtor, directing the sheriff to levy the like amount out of the goods and lands of the debtor. R. S. O. 1887, c. 65, s. 34.

35. The decision under this Act of a County Court Judge, or a Divisional Court on an appeal, shall bind all creditors, unless it appears that the decision was obtained by fraud or collusion by the parties to the contestation. R. S. O. 1887, c. 65, s. 35; 59 V., c. 18, Sched. (38).

Decisions to be binding on all creditors.

36. In case a sheriff has money in his hands, which, by reason of the provisions of this Act, or otherwise, he cannot

Sheriff to deposit moneys in bank.

immediately pay over to the execution creditors, or other claimants under this Act, he shall deposit the money, whenever the same amounts to \$100, in some incorporated bank designated for this purpose from time to time by order of the Lieutenant-Governor in Council, or where there is no such bank, then in some incorporated bank in which public money of the Province is then being deposited: the deposit to be made in the name of the sheriff, but to a special account in his name as "Trustee for the creditors of _____" (the debtor).
R. S. O. 1887, c. 65, s. 36.

Attaching
orders by
sheriff or
creditors.

37.—(1) Where there are in the sheriff's hands several executions and claims, and there are not, or do not appear to be, sufficient lands or goods, as the case may be, to pay all and his own fees, he may apply for an order attaching any debt owing to the execution debtor by any person resident in the county of such sheriff, whether the debt is owing by such person alone or jointly with another person resident or not resident in such county, and to procure the attachment the sheriff may take the same proceedings as a creditor; and in such case a writ of execution, or other writ in the course of the proceedings, may be directed to him in the same manner as if the attachment were by a creditor; and the proceeds of the debts attached shall be distributed in the same manner as if he had realized the same under execution.

(2) In case the sheriff does not take such proceedings, any person entitled to distribution may take the same for the benefit of himself and all other persons entitled to distribution as aforesaid, and the person owing the attached debt shall pay the same to the sheriff.

(3) Any judgment creditor who attaches a debt shall be deemed to do so for the benefit of himself and all creditors entitled under this Act; payment of such debt shall be made to the sheriff, who in making distribution shall apportion to such judgment creditor a share *pro rata*, according to the amount owing upon his judgment, of the whole amount to be distributed under the provisions of this Act, but such share shall not exceed the amount recovered by the garnishee proceedings unless the judgment creditor has placed a writ in the sheriff's hands.

(4) Money garnished and paid into the sheriff's hands shall be deemed to be money levied under execution, within the meaning of this Act, except that, unless the garnishee proceedings were taken by him, the sheriff shall only be entitled to charge poundage on such moneys at the rate of one and a quarter per cent.

(5) The provisions of subsections 3 and 4 of this section shall also apply, as nearly as may be, to any person who attaches a debt in the Division Court before judgment, and to the money so attached.

(6) In case a garnishee, under an order of the Court, pays to the attaching creditor, or in case a garnishee, without notice that the sheriff is entitled, pays the amount of his debt into Court and the same is paid out to the said creditor, the sheriff may recover from him the amount so received. R. S. O. 1887, c. 65, s. 37.

38. If any party to any contestation, matter or thing upon which a Judge has made or rendered any final order or judgment, is dissatisfied with such order or judgment, and the same is in respect to a question involving a sum greater than \$100, he may appeal therefrom to a Divisional Court of the High Court, subject to the like practice, as nearly as may be, as is from time to time in force in respect of appeals from a County Court or Judge, unless and until Rules establishing a different practice shall be made under the provisions of sections 122 and 125 of *The Judicature Act*, which shall apply to this Act. R. S. O. 1887, c. 65, s. 38, part; 59 V., c. 18, Sched. (39). Appeal.
Rev. Stat.
c. 51.

39. A Judge for the purpose of giving effect to this Act and carrying out its provisions shall have all the powers which a County Court or a Judge thereof has by law for other purposes; and any proceedings wrongly taken under this Act may be set aside by the Judge, with or without costs as he thinks fit. R. S. O. 1887, c. 65, s. 40. Powers of
Judge.

40. No proceeding under this Act shall be void for any defect of form; and the Rules, for amending or otherwise curing irregularities or defects, which may from time to time be in force in the County Courts shall apply to this Act. R. S. O. 1887, c. 65, s. 41. Defects of
form.

41. Besides the fees otherwise authorized to be paid to the Clerk of the County Court for his own use, the following fees shall be levied on the following proceedings under this Act upon all claims filed, where the amount of the claim exceeds \$200, and the same shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps*:— R. S. O. 1887, c. 25. Scale of fees
Rev. Stat.
c. 25.

On an affidavit of claim, where the amount claimed exceeds \$200 but does not exceed \$400.....	\$0 75
On every such affidavit where the claim exceeds \$400..	1 50
On every certificate of clerk given under section 9, where the claim exceeds \$200, but does not exceed \$400..	0 75
On every such certificate where the claim exceeds \$400..	1 50
On every order made by the Judge allowing or disallowing a claim, where the claim exceeds \$200, but does not exceed \$400	0 50
On every such order where the claim exceeds \$400	1 00

Where the claim is contested : on the proceedings after the order, the same fees as are now payable on like proceedings in the High Court. R. S. O. 1887, c. 65, s. 42.

Act not to interfere with Insolvency Laws.

42. This Act is not intended to interfere with the Insolvency Laws which may from time to time be in force in this Province, but this Act is intended to be subject to such Laws, and subject as aforesaid to apply to all debtors whether solvent or not. R. S. O. 1887, c. 65, s. 43.

SCHEDULE.

FORM A.

(Section 4, sub-s. 2.)

SHERIFF'S NOTICE.

Notice is hereby given that I have, by virtue of certain executions delivered to me against the goods and chattels and lands and tenements (or as the case may be) of C. D., levied and made out of the property of the said C. D., the sum of \$

And notice is further given that this notice is first posted in my office on the first day of May, 18 , and that distribution of the said money will be made amongst the creditors of the said C. D. entitled to share therein, at the expiration of one month from the said first day of May.

F. G.,
Sheriff.

Dated 1st May, 18 .

R. S. O. 1887, c. 65, Sched. Form A.

FORM B.

(Section 7, sub-s. 1.)

AFFIDAVIT OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of [state
county or united counties in which it is intended proceedings shall be taken.]

A. B. Claimant,

vs.

C. D. Debtor.

I, A. B., of in the county of
Merchant (or as the case may be) make oath and say :—

1. I am the above-named claimant (or the duly authorized agent of the claimant in this behalf, and have a personal knowledge of the matter hereinafter deposed to).

2. The above-named debtor is justly and truly indebted to me (or to the above-named claimant) in the sum of \$ _____ for [here state shortly the nature and particulars of the claim as they are required to be stated upon a specially endorsed writ].

Sworn before me at
this _____ day of _____
A.D. 18 _____

}
}

R. S. O. 1887, c. 65, Sched. Form B.

FORM C.

(Section 7, sub-s. 2.)

NOTICE TO BE SERVED WITH CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of _____

A. B. Claimant,

vs.

C. D. Debtor.

To the above (or within) named debtor.

Take notice that the claimant intends to file with the clerk of the County Court of _____ (or as the case may be) the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the sheriff of the said county (or united counties) a writ of execution against your goods and chattels and lands and tenements (or as the case may be), and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of *The Creditors' Relief Act*.

And further, take notice that in case you desire to contest the said claim, or any part thereof, you must, within ten days after the service of this notice upon you, file with the clerk of the said Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim, otherwise such claim will be treated as admitted by you, or may be so treated as to the part not contested.

You are further hereby notified that unless you endorse upon such affidavit filed by you a statement of some place in, or within three miles of the county town of the said county (or united counties) at which service may be made upon you, or the address of some solicitor in the Province of Ontario who may be served on your behalf, service may be made upon you of any notice, paper, or document requiring service, by mailing the same enclosed in an envelope addressed to you at the said county town.

NOTE.—In case the above notice is endorsed upon the copy of the affidavit served the heading of the notice may be omitted. Where further time is given by a Judge the notice should be varied accordingly.

R. S. O. 1887, c. 65, Sched. Form C.

FORM D.

(Section 8, sub-s. 4.)

AFFIDAVIT OF SERVICE OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B. Claimant.

vs.

C. D. Debtor.

I, G. H., of _____ in the county of _____ make
oath and say :—

1. That I did, on the _____ day of _____ personally serve
C. D., the above named debtor, with an original affidavit identical with
the annexed affidavit, and that there was at the time the said affidavit was
so served, attached to (or endorsed upon) the said affidavit so served a true
copy of the notice addressed to the debtor, now attached to (or endorsed
upon) the said annexed affidavit.

Sworn before me at
this _____ day of
A.D. 18 _____

}

R. S. O. 1887, c. 65, Sched. Form D.

FORM E.

(Section 9, sub-s. 1 and section 15.)

CERTIFICATE OF PROOF OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B. Claimant,

vs.

C. D. Debtor.

I, _____ clerk of the County Court of the
County of _____, do hereby certify that the above-
named claimant did on the _____ day of _____
file with me a claim against the above-named debtor, for the sum of
_____ together with an affidavit of personal service thereof (or
as the case may require) and of the notice required by *The Creditors' Relief*
Act, upon the said debtor, and that it thereby appears that such service
was made upon the said debtor on the _____ day of
18 _____.

And I further certify that the debtor has not contested the said claim (or,
has only contested the sum of _____ portion of the said claim,
or as the case may be), and that the claimant is entitled to the sum of
_____ against the said debtor and the further
sum of _____ for costs.

R. S. O. 1887, c. 65, Sched. Form E.

FORM F.

(Section 30.)

SHERIFF'S STATEMENT OF EXECUTIONS ON HAND AGAINST C. D.

CAUSE.	Proceeding.	Claim with- out Costs.	Costs.	Date of receipt by Sheriff.	Amount Levied.	Date of Levy.
A. B. v. C. D..	<i>Fi. fa.</i> goods and lands....	\$504	\$30	18th Feb. 1886.	\$500	1st May, 1886.
F. G. v. C. D. } & E. G.... }	<i>Fi. fa.</i> goods and lands....	400	20	1st March, 1886	300	3rd May, 1886. Nothing made against E. G.
K. L. v. C. D..	Garnishee or- der.....	500	30	300	10th May, 1886.
M. N. v. C. D..	Creditor's Cer- tificate	400	5	15th May, 1886

R. S. O. 1887, c. 65, Sched. Form F.

FORM G.

(Section 32, sub-s. 5.)

CONTESTATION OF SCHEME OF DISTRIBUTION.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B.....Claimant,

vs.

C. D.....Debtor.

To *F. G.* and *M. N.*, claimants of moneys levied by the Sheriff of the
County of out of the estate of *C. D.*

Take notice that I will on the day of
next, apply to the Judge of the County Court of
the County of at his chambers at the Court House
in the town of for an order adjudicating upon the
right of you the said to rank upon the said
moneys for any amount whatever (*or as the case may be*); and further take
notice that I will, upon the said application, read the affidavits of *E. F.*
and *X. Y.*, filed with the clerk of the said Court.

Dated, etc.

R. S. O. 1887, c. 65, Sched. Form G.

ABSCONDING DEBTORS.

R. S. O. 1897, CAP. 79.

An Act respecting Absconding Debtors

ABSCONDING DEBTOR DEFINED, s. 1.	SALE OF CHATTELS, s. 10.
PROCEDURE TO OBTAIN ATTACHMENT, SS. 2, 3.	ATTACHMENT OF DEBTS DUE TO THE ABSCONDING DEBTOR, SS. 11, 12.
WHAT PROPERTY MAY BE ATTACHED, S. 4.	ACTIONS BY SHERIFF FOR OUTSTAND- ING DEBTS, SS. 13-17.
PERISHABLE PROPERTY, SS. 5, 6.	DISTRIBUTION OF PROCEEDS, SS. 18, 19.
DIVISION COURT ATTACHMENT SUPER- SEDED, s. 7.	SURPLUS TO BE RESTORED TO DEBTOR, s. 20.
SHERIFF'S COSTS, SS. 8, 9.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

Who to be
regarded as an
absconding
debtor.

1. If a person resident in Ontario indebted to any other person, departs from Ontario with intent to defraud his creditors, and at the time of his so departing is possessed to his own use and benefit of any real or personal property, credits or effects therein not exempt by law from seizure, he shall be deemed an absconding debtor, and his property, credits or effects aforesaid may be seized and taken for the satisfying of his debts by an order of attachment. R. S. O. 1887, c. 66, s. 1. Con. Rules 1897, No. 1,058.

PROCEDURE TO OBTAIN ATTACHMENT.

In the High Court.

Proceedings
upon affidavits
that the de-
fendant has
absconded, etc.

2. Upon affidavit made by a plaintiff, his servant or agent, that a person so departing is indebted to the plaintiff in a sum exceeding \$100, and stating the cause of action, and that the deponent has good reason to believe and does verily believe that the person has departed from Ontario and has gone to (stating some place to which the absconding debtor is believed to have fled, or that the deponent is unable to obtain any information as to what place he has fled to), with intent to defraud

the plaintiff of his just dues, or to avoid being arrested or served with process, and was, at the time of his so departing, possessed of real or personal property, credits or effects, not exempt by law from seizure, to his own use and benefit in Ontario, and upon the further affidavit of two other persons, that they are well acquainted with the debtor mentioned in the first-named affidavit, and have good reason to believe and do believe that the debtor has departed from Ontario with intent to defraud the plaintiff, or to avoid being arrested or served with process, the High Court, or a Judge thereof, or the Judge of a County Court, may make an order in the High Court for the attachment of the property, credits and effects of the debtor, and may in the order appoint the time for the defendant's putting in special bail, which time shall be regulated by the distance from Ontario of the place to which the absconding debtor is supposed to have fled, have due regard to the means of and necessary time for postal or other communication. R. S. O. 1887, c. 66, s. 2.

Order of attachment to issue.

In County Courts.

3. In case the sum claimed is within the jurisdiction of the County Courts, any such Court or the Judge thereof may in like manner make an order of attachment in that Court, and the proceedings thereon shall be the same as in this Act provided. R. S. O. 1887, c. 66, s. 3.

Proceedings in cases within County Court jurisdiction.

WHAT PROPERTY MAY BE ATTACHED.—INVENTORY, ETC.

4.—(1) All the property, credits and effects of an absconding debtor, including all rights and shares in any association or corporation, may be attached in the same manner as they might be seized in execution; and the sheriff to whom an order of attachment is directed shall forthwith take into his charge all such property and effects according to the exigency of the order, and shall be allowed all necessary disbursements for keeping the same, and he shall immediately call to his assistance two substantial freeholders of his county, and with their aid he shall make a just and true inventory of all the personal property, credits and effects, evidences of title or debt, books of account, vouchers and papers that he has attached, and shall return such inventory signed by himself and the said freeholders, together with the order of attachment. R. S. O. 1887, c. 66, s. 13.

Sheriff to attach all the property and credits of defendant.

Inventory be made.

(2) Goods exempt from seizure under execution shall not be liable to seizure under the order of attachment. R. S. O. 1887, c. 64, s. 4, part.

Exemptions.

[For property exempt from execution and attachment, see Chaps. 77 and 156.]

PERISHABLE PROPERTY.

Sale of perishable goods on plaintiff giving security.

5. In case horses, cattle, sheep, pigs, or perishable goods or chattels, or such as from their nature (as timber or staves) cannot be safely kept or conveniently taken care of, are taken under an order of attachment, the sheriff who attaches the same shall have them appraised and valued, on oath, by two competent persons; and in case the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by two freeholders (whose sufficiency shall be approved of by the sheriff), in double the amount of the appraised value of the articles, conditioned for the payment of the appraised value to the defendant, his executors or administrators, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the sheriff shall proceed to sell all or any of such enumerated articles at auction, to the highest bidder, giving not less than six days' notice of the sale, unless any of the articles are of such a nature as not to allow of that delay, in which case the sheriff may sell such articles last mentioned forthwith; and the sheriff shall hold the proceeds of the sale for the same purposes as he would hold property seized under the attachment. R. S. O. 1887, c. 66, s. 14.

Sheriff to hold proceeds.

The goods to be restored if plaintiff fails to give sufficient security.

6. If the plaintiff, after notice to himself or his solicitor of the seizure of any articles enumerated in the last preceding section, neglects or refuses to deposit the bond, or only offers a bond with sureties insufficient in the judgment of the sheriff, then, after the lapse of four days, next after the notice, the sheriff shall be relieved from all liability to the plaintiff in respect to the articles so seized, and the sheriff shall forthwith restore the same to the person from whose possession he took such articles. R. S. O. 1887, c. 66, s. 15.

WHEN DIVISION COURT ATTACHMENT SUPERSEDED.

Proceeding if sheriff finds property in the hands of a bailiff or clerk of a Division Court.

7. If the sheriff to whom an order of attachment is delivered for execution, finds any property or effects, or the proceeds of any property or effects which have been sold as perishable, belonging to the absconding debtor named in the order of attachment, in the custody of a constable or of a bailiff or clerk of a Division Court by virtue of a warrant of attachment issued or money paid into Court under a garnishee summons under *The Division Courts Act*, the sheriff shall demand and take from the constable, bailiff or clerk, the property or effects, or the proceeds of any part thereof and the constable, bailiff or clerk, on demand by the sheriff and notice of the order of attachment, shall forthwith deliver all the property, effects and proceeds aforesaid to the sheriff, upon penalty of forfeiting double the value of the amount thereof, to be recovered by the sheriff, with costs of suit, and to be by him

Rev. Stat. c. 60.

accounted for after deducting his own costs, as part of the property and effects of the absconding debtor; but the creditor who has duly sued out the warrant of attachment may proceed to judgment against the absconding debtor in the Division Court, and on obtaining judgment, and serving a memorandum of the amount thereof, and of the costs to be certified under the hand of the clerk of the Division Court, such creditor shall be entitled to satisfaction in like manner as, and in ratable proportion with, the other creditors of the absconding debtor who obtain judgment as hereinafter mentioned. R. S. O. 1887, c. 66, s. 16.

Creditor in Division Court may proceed to judgment.

SHERIFF'S COSTS.

8. The costs of the sheriff for seizing and taking charge of property, credits and effects under an order of attachment, including the sums paid to persons for assisting in taking an inventory, and for appraising (which shall be paid for at the rate of \$1 for each day actually required for and occupied in making the inventory or appraisalment) shall be paid in the first instance by the plaintiff, and may, after having been taxed, be recovered by the sheriff by action in any Court having jurisdiction, and such costs shall be taxed to the party who pays the same as part of the disbursements in the action against the absconding debtor and be so recovered from him. R. S. O. 1887, c. 66, s. 17.

Sheriff's costs and how paid.

9. The sheriff having made an inventory and appraisalment on the first order of attachment against any absconding debtor, shall not be required to make, nor shall he be allowed to charge for, a new inventory and appraisalment upon a subsequent order of attachment coming into his hands. R. S. O. 1887, c. 66, s. 18.

Cost of new inventory not allowed on receipt of new writ.

SALE OF CHATTELS.

10.—(1) The Court or a Judge may, at any time after an order of attachment has been in the hands of a sheriff, or other officer, for one month, direct him to sell any goods or chattels, except chattels real which have been attached.

Sale of goods under order of attachment.

(2) An order for sale may be made upon the application of a creditor having an order of attachment, or a writ of execution, in the hands of the sheriff, and shall be made if the Court or Judge is satisfied that the alleged debtor has in fact absconded indebted to the applicant, and that the property attached is not sufficient to pay in full the claims of the persons who have obtained orders of attachment, or execution, but this provision shall not be construed to restrict the authority of the Court or Judge to make an order in other cases; and in all cases terms may be imposed.

(3) The cost of the first order of attachment shall have

priority over all execution debts and other costs. R. S. O. 1887, c. 66, s. 20.

[As to sales of shares, etc., in companies, see secs. 10 to 16 of "The Execution Act," Cap. 77.]

ATTACHMENT OF DEBTS DUE TO ABSCONDING DEBTOR.

Liability of persons paying debts to absconding debtor after notice of attachment.

11. In case notice in writing of the order of attachment has been duly served by the sheriff, or by or on behalf of the plaintiff, upon a person owing a debt or demand to, or who has the custody or possession of property or effects of, an absconding debtor, and in case such person after such notice pays the debt or demand or delivers the property or effects to the absconding debtor, or to any one for him, he shall be deemed to have done so fraudulently, and if the plaintiff recovers judgment against the absconding debtor, and the property and effects seized by the sheriff are insufficient to satisfy the judgment, such person shall be liable for the amount of the debt or demand, and for the property and effects or the value thereof. R. S. O. 1887, c. 66, s. 21.

Debtor if sued by defendant after service of notice of attachment may obtain stay of proceedings.

12. If after notice as aforesaid a person indebted to the absconding debtor, or having custody of his property as aforesaid, is sued for the debt, demand or property by the absconding debtor, or by the person to whom the absconding debtor has assigned the debt, demand or property since the date of the order of attachment, he may, on affidavit, apply to the Court or a Judge, to stay proceedings in the action against himself, until it is known whether the property and effects so seized by the sheriff, are sufficient to discharge the sum or sums recovered against the absconding debtor, and the Court or Judge may direct an issue to try any disputed question of the fact or make such other order as is proper. R. S. O. 1887, c. 66, s. 22.

WHEN SHERIFF MAY SUE FOR OUTSTANDING DEBTS.

Debtor of defendant may be sued by sheriff if defendant's property is not sufficient to satisfy claims.

Rev. Stat. c. 78.

13. If the real and personal property, credits and effects of an absconding debtor prove insufficient to satisfy the executions obtained against him and claims certified under *The Creditors' Relief Act*, the sheriff may, by order of the Court or a Judge, to be granted on the application of any plaintiff or claimant sue for and recover from any person indebted to the absconding debtor, the debt, claim, property or right of action attachable under this Act, and owing to or recoverable by the absconding debtor, with costs of suit, in which action the defendant shall be allowed to set up any defence which would have availed him against the absconding debtor at the date of the order of attachment, and a recovery in the action by the sheriff shall operate as a discharge as against the absconding debtor; and the sheriff shall hold and apply the moneys recovered by him

as part of the assets of the absconding debtor. R. S. O. 1887, c. 66, s. 23.

14. The statement of claim in the action by the sheriff shall contain an introductory averment to the effect following: Averment to be inserted in sheriff's statement of claim.

The plaintiff is Sheriff of (etc.) and sues under the provisions of *The Act respecting Absconding Debtors*, in order to recover from C. D., debtor to E. F., an absconding debtor the debt due (or other claim, according to the facts) by the said C. D., to the said E. F., etc.

R. S. O. 1887, c. 66, s. 24.

15. The sheriff shall not be bound to sue as aforesaid until a bond is given by one or more of the plaintiffs or claimants with two sufficient sureties, who may be other of the plaintiffs or claimants, payable to the sheriff by his name of office in double the amount or value of the debt or property sued for, conditioned to indemnify him from all costs, losses and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof. R. S. O. 1887, c. 66, s. 25. Sheriff not bound to sue until creditor gives bond of indemnity.

16. If the real and personal property, credits and effects of an absconding debtor prove insufficient to satisfy the executions obtained against him and claims certified under *The Creditors' Relief Act*, and if there remain debts due to the absconding debtor, the attempt to collect which would be more onerous than beneficial to his creditors, the sheriff may, by an order of the Court or a Judge, sell such debts by public auction after such advertisement thereof as the Court or Judge may order, and pending such advertisement the sheriff shall keep a list of the debts to be sold open for inspection at his office, and shall give free access to all documents and vouchers explanatory of such debts; but all debts amounting to more than \$100 shall be sold separately, unless the Court or Judge shall otherwise order. 52 V., c. 11, s. 2, part. Sale of debts by sheriff. Rev. Stat. c. 78.

17. The person who purchases a debt from the sheriff may sue for it in his own name, and without any further order of the Court or Judge, as effectually as the absconding debtor might have done, and as the sheriff is by section 13 hereof authorized to do, and a bill of sale, which may be in the form in the Schedule to this Act, or to the like effect, signed and delivered to him by the sheriff, shall be *prima facie* evidence of such purchase and of the sheriff's authority to sell without proof of the handwriting of the sheriff, or of the writ or order or of the sale, and no warranty on the part of the sheriff that the debt is due or otherwise shall be created by such sale and conveyance, and in any action by the purchaser of such debt the defendant shall be allowed to set up any defence which would have availed him against the absconding debtor at the date of the order of attachment. 52 V., c. 11, s. 2, part. Purchaser entitled to sue in his own name.

DISTRIBUTION OF PROCEEDS.

Who entitled to share if property proves insufficient to pay all.

Rev. Stat. cc. 78 and 60.

18. In case the property and effects of the absconding debtor are insufficient to satisfy the executions and other claims certified, none shall be allowed to share, unless their proceedings under this Act, or *The Creditors' Relief Act*, or the provisions of *The Division Courts Act* respecting absconding debtors were commenced within six months from the date of the first writ of attachment. R. S. O. 1887, c. 66, s. 26.

Delay of distribution until claims established.

19. The Court or a Judge may delay the distribution, in order to give reasonable time for the obtaining of judgment or allowance of claim by persons who have commenced proceedings in due time against the absconding debtor. R. S. O. 1887, c. 66, s. 27.

SURPLUS TO BE RESTORED.

When all seizing creditors are satisfied, remaining property to be delivered up.

20. In case at any time the sheriff has levied for distribution sufficient to pay all debts and claims for which proceedings had then been commenced, including costs, and one month has elapsed without proceedings being taken in respect of any other debt or claim, or in case after a period of one month from a distribution under the order of the Court or a Judge, whichever last happens, and after satisfying the several plaintiffs and claimants entitled, there is no other writ of attachment or execution against the same property and effects in the hands of the sheriff, or claim certified against the debtor, then, all the property and effects of the absconding debtor, or unappropriated money the proceeds of any part of such property and effects, remaining in the hands of the sheriff, together with all books of account, evidences of title or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered to the absconding debtor, or to the person or persons in whose custody the same were found, or to the authorized agent of the absconding debtor, and thereupon the responsibility of the sheriff in respect thereto shall determine. R. S. O. 1887, c. 66, s. 28.

SCHEDULE.

BILL OF SALE OF A DEBT.

(Section 17.)

In consideration of the sum of \$ _____, the receipt whereof I do hereby acknowledge :

I, *A. B.*, Sheriff of the County of _____, under and by virtue of an order of attachment dated _____, issued under *The Act respecting Absconding Debtors*, against the real and personal property, credits and effects of *C. D.*, an absconding debtor, and under and by virtue of an order in that behalf, hereby sell and assign to *E. F.* all claim by the said absconding debtor, against *G. H.*, of (*describing the debtor*), with evidences of debt and securities thereto appertaining; but without any warranty of any kind or nature whatsoever.

52 V., c. 11, Sched. and Con. Rules, 1897, No. 1,058.

RESTITUTION OF STOLEN GOODS.

R. S. O. 1897, CAP. 82.

An Act respecting the Restitution of Stolen Goods.

WHEREAS it often happens that property supposed or Preamble.
 alleged to be stolen is found in the possession of a person who is afterwards convicted as a criminal for stealing, taking, obtaining, extorting, embezzling, appropriating, converting, disposing of, or knowingly receiving other chattels, money, valuable securities, or property, and any other charge or other charges is or are pending against such prisoner, and there is no intention of proceeding upon such other charge or charges, because of the person having been convicted as aforesaid, and because no additional punishment would be imposed if additional convictions were obtained; and whereas it is expedient in such case to give to the owners or other persons entitled to the possession of the property a summary remedy for the recovery thereof;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. If in such a case the counsel acting for the Crown intimates that the Crown does not intend to proceed upon any charge in respect of the property so found in the prisoner's possession as first aforesaid, the Judge before whom the prisoner was convicted may, upon the application of the prosecutor or other person claiming the property, summarily try at the same sittings of the Court or at a subsequent time, the right of the prisoner and of the claimant to the property; and if the Judge finds that the claimant is the owner or is entitled to the possession thereof, he may order the property to be delivered to the claimant, and the order shall be an absolute protection to the officer or other person who has the custody of the property in delivering the same as directed by the order.
 R. S. O. 1887, c. 69, s. 1. Order for delivery of property after summary trial.

2. Nothing herein contained shall be held to bar the right of the person convicted to take proceedings for the recovery of the property against the person receiving the same under the order; Right of person convicted not barred by order.

and the Judge may, if he thinks fit, require the person in whose favour the order is made to give security for the return of the property to the person so convicted, in case the latter should thereafter be held to be entitled thereto. R. S. O. 1887, c. 69, s. 2.

When order
for restitution
not to be
made.

3. If, before an order is made, it appears that a valuable security so found in a prisoner's possession has been *bona fide* paid or discharged by some person liable to the payment thereof, or, being a negotiable instrument, has been *bona fide* taken or received by transfer or delivery by some person for a just and valuable consideration, without notice, or without reasonable cause to suspect, that the same had been stolen or embezzled or criminally taken, obtained, extorted, appropriated, converted, received or disposed of, in such case the Court shall not order the restitution of the security. R. S. O. 1887, c. 69, s. 3.

Application of
Act.

4. Nothing in this Act contained shall apply to the case of a prosecution of a trustee, banker, merchant, attorney, factor, broker, or other agent entrusted with the possession of goods or documents of title to goods, for an offence against *The Criminal Code, 1892*, of Canada, R. S. O. 1887, c. 69, s. 4.

55-56 V., c. 29
(Dom.).

Right of
Crown pre-
served.

5. Nothing herein contained shall affect the right of the Crown to claim property as forfeited. R. S. O. 1887, c. 69, s. 5.

FRAUDULENT CONVEYANCES.

R. S. O. 1897, CAP. 115.

An Act respecting Voluntary and Fraudulent Conveyances.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

VOLUNTARY CONVEYANCES.

No voluntary
conveyance,
etc., executed
in good faith
and duly

1. Notwithstanding the provisions of the statute passed in the 27th year of the reign of Her late Majesty Queen Elizabeth, and chaptered four, no conveyance, grant, charge, lease, estate,

incumbrance, limitation of use or uses which is executed in good faith, and duly registered in the proper registry office before the execution of the conveyance to, and before the creation of any binding contract for the conveyance to any subsequent purchaser from the same grantor of the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity in or out of the same, shall be or be deemed or taken to be, merely by reason of the absence of a valuable consideration, void, frustrate, or of none effect as against such purchaser, or his heirs, executors, administrators or assigns, or any person claiming by, from, or under any of them. R. S. O. 1887, c. 96, s. 1.

registered to be void merely for absence of valuable consideration.

2. Nothing in the preceding section contained shall have the effect of making valid any instrument which is for any reason other than or in addition to the absence of a valuable consideration void under the said statute or otherwise; nor shall anything in the preceding section contained have the effect of making valid any instrument as against a purchaser who had, before the 28th day of February, 1868, entered into a binding contract for, or received his conveyance upon such purchase. R. S. O. 1887, c. 96, s. 2.

Instruments otherwise void not to be valid under preceding section.

FRAUDULENT CONVEYANCES.

3. Whereas by the first and second clauses of the Act passed in the 13th year of the reign of Her late Majesty Queen Elizabeth, it is enacted as follows:—

“For the avoiding and abolishing of feigned, covinous and “fraudulent feoffments, gifts, grants, alienations, conveyances, “bonds, suits, judgments and executions more commonly used “and practised in these days than hath been seen or heard of “heretofore, which feoffments, gifts, grants, alienations, convey- “ances, bonds, suits, judgments and executions have been and “are devised or contrived of malice, fraud, covin, collusion or “guile, to the end, purpose and intent to delay, hinder and “defraud creditors and others of their just and lawful actions, “suits, debts, accounts, damages, penalties, forfeitures, heriots, “mortuaries and reliefs, not only to the let or hindrance of the “due course and execution of law and justice, but also to the “overthrow of all true and plain dealing, bargain and chevi- “sance between man and man, without the which no common- “wealth or civil society can be maintained or continued; all “and every feoffment, gift, grant, alienation, bargain and con- “veyance of lands, tenements, hereditaments, goods and chat- “tels, or of any of them, or of any lease, rent, common or other “profit or charge out of the same lands, tenements, heredita- “ments, goods and chattels, or any of them, by writing or other- “wise, and all and every bond, writ, judgment and execution, “at any time had or made since the beginning of the Queen’s

Recital of ss. 1, 2 and 6 of 13 Eliz. c. 5, that certain conveyances, judgments, etc., to be void unless made to a *bona fide* purchaser for value.

"Majesty's reign, that now is or at any time hereafter to be had or made to or for any intent or purpose before declared or expressed, shall be from thenceforth deemed and taken only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, by such guileful, covinous and fraudulent devices and practices as is aforesaid, are or shall or might be in any ways disturbed, hindered, delayed or defrauded, to be clearly and utterly void, frustrate and of none effect, any pretence, colour, feigned consideration expressing of use or any other matter or thing to the contrary notwithstanding."

And whereas it is also by the sixth clause of the said Act provided and enacted as follows:

"This Act or anything herein contained shall not extend to any estate or interest in lands, tenements, hereditaments, leases, rents, commons, profits, goods or chattels had, made, conveyed or assured, or hereafter to be had, made, conveyed or assured, which estate or interest is or shall be upon good consideration and *bona fide* lawfully conveyed or assured to any person or persons, or bodies politic or corporate, not having at the time of such conveyance or assurance to them made any manner of notice or knowledge of such covin, fraud or collusion as is aforesaid, anything before mentioned to the contrary thereof notwithstanding."

And whereas there are doubts as to the true construction of the said Act, and it is expedient to declare the true construction of the same:

Therefore it is further enacted as follows:

When
valuable
consideration
and intent to
pass interest
not to avail.

1. The first and second clauses of the said Act apply to all instruments executed to the end, purpose and intent in the said clauses set forth, notwithstanding that the same may be executed upon a valuable consideration, and with the intention, as between the parties to the same, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless the same is protected under the sixth clause of the said Act by reason of *bona fides* and want of notice or knowledge on the part of the purchaser.

Instruments
not affected.

2. This section shall not apply to any instrument executed before the second day of March, 1872. R. S. O. 1887, c. 96, s. 3.

POWERS OF ATTORNEY.

R. S. O. 1897, CAP. 116.

An Act respecting Powers of Attorney.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In case a power of attorney for the sale or management of real or personal estate, or for any other purpose, provides that the same may be exercised in the name and on the behalf of the heirs or devisees, executors or administrators of the person executing the same, or provides by any form of words that the same shall not be revoked by the death of the person executing the same, such provision shall be valid and effectual to all intents and purposes, according to the tenor and effect thereof, and subject to such conditions and restrictions, if any, as may be therein contained. R. S. O. 1887, c. 97, s. 1.

As to a power of attorney provided expressly to be exercised after decease of constituent.
2. Independently of such special provision in a power of attorney, every payment made and every act done under and in pursuance of a power of attorney, or a power, whether in writing or verbal, and whether expressly or impliedly given, or an agency expressly or impliedly created after the death of the person who gave such power or created such agency, or after he has done some act to avoid the power or agency, shall, notwithstanding such death or act last aforesaid, be valid as respects every person party to such payment or act, to whom the fact of the death, or of the doing of such act as last aforesaid, was not known at the time of such payment or act *bona fide* done as aforesaid, and as respects all claiming under such last-mentioned person. R. S. O. 1887, c. 97, s. 2.

Where things done after the decease, etc., of constituents to be valid.

ESTATES OF DECEASED INSOLVENTS.

R. S. O. 1897, CAP. 132.

An Act respecting the Estates of Insolvent Deceased Persons.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Creditor holding security to value the same.

1.—(1) On the administration of the estate of a deceased person, in case of a deficiency of assets, every creditor in proving his claim shall state whether he holds any security for his claim or any part thereof, and shall give full particulars of the same, and if such security is on the estate of the deceased debtor, or on the estate of a third party for whom the estate of the deceased debtor is only indirectly or secondarily liable, the creditor so proving his claim shall put a specified value on such security, and the executor or administrator, under the authority of the other creditors of the estate of the deceased, or of the Court if the estate is being then administered under the direction of or by a court, may either consent to the creditors' ranking for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent. upon the specified value to be paid out of the estate as soon as the executor or administrator has realized such security, in which he shall be bound to the exercise of ordinary diligence; and in either of such cases the difference between the value at which the security is retained, and the amount of the gross claim of the creditor shall be the amount for which he shall rank upon the estate of the deceased debtor.

When claim is based on negotiable instruments.

(2) If the claim of the creditor is based upon negotiable instruments upon which the estate of the deceased debtor is only indirectly or secondarily liable, and which are not mature or exigible, the creditor shall be considered to hold security within the meaning of this section, and shall put a value on

the liability of the party primarily liable thereon as being his security for the payment thereof, but after the maturity of such liability and its non-payment, he shall be entitled to amend and revalue his claim. 59 V., c. 22, s. 1.

2. A creditor holding any security as aforesaid on the estate of a deceased debtor, or on the estate of a third party for whom the estate of such debtor is only secondarily liable, may release or deliver up such security to the executor or administrator, or he may by statutory declaration delivered to the executor or administrator set a value upon such security; and from the time he shall have so released or delivered up such security or valued the same, the debt to which such security applied shall be considered as an unsecured debt of the estate, or as being secured only to the extent of the value set upon such security; and the creditor may rank as and exercise all the rights of an ordinary creditor, for the amount of his claim, or to the extent only of any balance thereof above and beyond the value set upon such security as the case may be. 59 V., c. 22, s. 2.

Creditor holding security may assign same and rank as unsecured creditor.

3. In case a person claiming to be entitled to rank on the estate holds security for his claim or any part thereof, of such a nature that he is required by this Act to value the same, and he fails to value such security, the Judge of the Surrogate Court, who granted the probate or letters of administration, may, upon summary application by the executor or administrator, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed on such security and notified in writing to the executor or administrator within a time to be limited by the order such claimant shall, in respect of the claim, or the part thereof for which the security is held in case the security is held for part only of the claim, be wholly barred of any right to share in the proceeds of such estate, and if a specified value is not placed on such security and notified in writing to the executor or administrator according to the exigency of the said order, or within such further time as the said Judge may by subsequent order allow, the said claim or the said part, as the case may be, shall be wholly barred as against such estate. 59 V., c. 22, s. 3.

When creditor holding security fails to value same.

4. When the estate is being administered by or under the direction of a court, such court shall exercise the jurisdiction conferred by the preceding section upon the Judge of the Surrogate Court. 59 V., c. 22, s. 4.

Administration under the direction of a court.

[As to priority in respect of wages, see Cap. 156, sec. 6.]

TIME.

R. S. O. 1897, CAP. 144.

An Act respecting the Legal Meaning of Expressions relative to Time.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

“Short Title.” **1.** This Act may be cited as “*The Definition of Time Act.*” 58 V., c. 2, s. 3.

Expressions as to time to refer to standard time.

2. Where an expression of time occurs in any Act of this Legislature, whether heretofore or hereafter passed, or in any Rule of Court, bylaw, deed or other legal instrument, whether heretofore or hereafter enacted or executed, or whenever any hour or other period of time is stated either orally or in writing, or whenever any question as to a period of time arises, the time referred to or intended shall, unless it is otherwise specifically stated, be held to be “standard time”; and as regards that part of the Province which lies east of the meridian of eighty-seven degrees west longitude, standard time shall be reckoned as five hours behind Greenwich time; and as regards that part of the Province which lies west of the said meridian, standard time shall be reckoned as six hours behind Greenwich time. 58 V., c. 2, s. 1; 59 V., c. 18, Sched. (45); 60 V., c. 15, Sched. A. (61), part.

“Month,” meaning of.

3. Where the expression “month” occurs or is stated as in the preceding section mentioned, it shall mean a calendar month unless it is otherwise specifically stated. 60 V., c. 15, Sched. A. (61), part.

Numbering hours of day up to 24.

4. The hours of the day may in any locality be numbered in one series up to 24 according to the “24-hour notation” so called, and the numbers so used shall be equally valid with the numbers used in the division of the day into two series of 12 hours, distinguished as “a.m.” and “p.m.” 58 V., c. 2, s. 2.

MERCANTILE AMENDMENT ACT.

R. S. O. 1897, CAP. 145.

An Act to amend the Mercantile Law.

SHORT TITLE, s. 1.

SURETIES :

Paying principal's debt to be
entitled to securities, remedies,
etc., of the creditor, ss. 2, 3.

Rights, *inter se*, s. 4.

BILLS OF LADING :

Rights, under, transferable by en-
dorsement, s. 5 (1, 2).

Conclusive as against the signer,
s. 5 (3).

WAREHOUSE RECEIPTS, ETC., AS COL-
LATERAL SECURITY, ss. 6-20.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows :—

1. This Act may be cited as "*The Mercantile Amendment Act*." R. S. O. 1887, c. 122, s. 1. Short title.

2. Every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, pays the debt or performs the duty, shall be entitled to have assigned to him or a trustee for him, every judgment, specialty, or other security which is held by the creditor in respect of such debt or duty, whether such judgment, specialty or other security be or be not deemed at law to have been satisfied by the payment of the debt or the performance of the duty. Right of sureties paying the principal debt, etc., to assignment.
R. S. O. 1887, c. 122, s. 2.

3. Such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, if need be, and on proper indemnity, to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who has so paid such debt or performed such duty; and such payment or performance so made by such surety shall not be a defence to such action or other proceeding by him. And to remedies on such assignment.
R. S. O. 1887, c. 122, s. 3.

What only one co-surety, etc., may recover from another.

4. No co-surety, co-contractor or co-debtor shall be entitled to recover from any other co-surety, co-contractor or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last mentioned person is justly liable. R. S. O. 1887, c. 122, s. 4.

BILLS OF LADING.

Preamble.

5. Whereas by the custom of merchants a bill of lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property; and whereas it frequently happens that the goods in respect of which bills of lading purport to be signed have not been laden on board, and it is proper that such bills of lading in the hands of a *bona fide* holder for value should not be questioned by the master or other person signing the same, on the ground of the goods not having been laden as aforesaid;

Therefore it is enacted as follows:

Rights and liabilities of consignees and endorsees of bills of lading. Imp. Act, 18-19 V., c. 111.

1. Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or endorsement, shall have transferred to, and vested in him all rights of action, and be subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made to himself.

Certain rights and liabilities not affected.

2. Nothing in this section contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

Bills of lading as evidence against signer.

3. Every bill of lading in the hands of a consignee or endorsee for valuable consideration representing goods to have been shipped on board a vessel or train shall be conclusive evidence of the shipment as against the master or other person signing the same, notwithstanding that the goods or some part thereof may not have been so shipped, unless the holder of the bill of lading has actual notice at the time of receiving the same that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary; but the master or other person so signing, may exonerate himself in respect to such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or of some person under whom the holder claims. R. S. O. 1887, c. 122, s. 5.

WAREHOUSE RECEIPTS, ETC., AS COLLATERAL SECURITY.

6. The words "goods, wares and merchandise" when used in the following sections of this Act, shall, except where otherwise expressly provided in said sections, be held to comprise, in addition to the things usually understood thereby, timber, boards, deals, staves and other lumber. R. S. O. 1887, c. 122, s. 14.

Interpretation.
"Goods, wares and merchandise."

7. Any cove receipt, bill of lading, specification of timber or any receipt given by a cove-keeper, miller, or by the keeper of a warehouse, wharf, yard, harbour or other place, for cereal grains, goods, wares or merchandise laid up, stored or deposited, or to be laid up, stored or deposited in or on the cove, mill, warehouse, wharf, yard, harbour or other place in this Province, of which he is keeper, or any bill of lading or receipt given by a master of a vessel, or by a carrier for carrying cereal grains, goods, wares or merchandise shipped in such vessel or delivered to such carrier for carriage from any place whatever, to any part of this Province or through the same, or on the waters bordering thereon, or from the same to any other place whatever, and whether such cereal grains are to be delivered upon such receipt *in specie* or converted into flour, may, by endorsement thereon by the owner of, or person entitled to receive such cereal grains, goods, wares or merchandise, or his attorney or agent, be transferred to any private person as collateral security for any debt due to such private person, and being so endorsed shall vest in such private person from the date of the endorsement, all the right and title of the endorser to or in such cereal grains, goods, wares or merchandise, subject to the right of the endorser to have the same retransferred to him, if the debt is paid when due; and in the event of the non-payment of the debt when due, such private person may sell the said cereal grains, goods, wares or merchandise and retain the proceeds or so much thereof as will be equal to the amount due to the private person upon the debt, with any interest or costs, returning the overplus, if any, to the endorser. R. S. O. 1887, c. 122, s. 15.

Cove receipts, etc., may be transferred by endorsement as collateral security.

And may sell the goods if such bills are not duly paid, returning surplus, etc.

8. Where a person engaged in the calling of cove-keeper, miller, or of keeper of any warehouse, wharf, yard, harbour or other place, master of a vessel or carrier, by whom a receipt or bill of lading may be given in such his capacity, as hereinbefore mentioned, for cereal grains, goods, wares or merchandise, is at the same time the owner of or entitled himself (otherwise than in his capacity of cove-keeper, miller, or of keeper of a warehouse, wharf, yard, harbour or other place, or of master of a vessel or carrier) to receive such cereal grains, goods, wares or merchandise, any such receipt or bill of lading, or any acknowledgment or certificate intended to answer the purpose of such receipt or bill of lading, given and endorsed by such person,

Cove-keeper, etc., owning or being entitled to the goods, may, notwithstanding, give a receipt, etc, and endorse it

shall be as valid and effectual for the purposes of this Act, as if the person giving such receipt or bill of lading acknowledged or certificate, and endorsing the same, were not one and the same person. R. S. O. 1887, c. 122, s. 16.

Goods, except timber, etc., not to be held beyond six months.

Debt to be contracted at time of transfer of bill.

Goods not to be sold without notice to the owner.

9. No such cereal grains, and no such goods, wares or merchandise (other than timber, boards, deals, staves or other lumber), shall be held in pledge by such private person for any period exceeding six months; and no transfer of such bill of lading, specification of timber or receipt, shall be made under this Act to secure the payment of any debt, unless the debt is contracted at the same time with the endorsement of the bill of lading, specification of timber or receipt; and further, no sale of any cereal grains or of goods, wares or merchandise (other than timber, boards, deals, staves or other lumber), shall take place under this Act until and unless ten days' notice of the time and place of the sale has been given by registered letter transmitted through the post office, to the owner of such cereal grains or such goods, wares or merchandise other than as aforesaid prior to the sale thereof. R. S. O. 1887, c. 122, s. 17.

Timber, etc., not to be held beyond twelve months, etc.

10.—(1) No timber, boards, deals, staves or other lumber, shall be held in pledge by such private person, for any period exceeding twelve months; and no transfer of any such receipt or bill of lading shall be made under this Act to secure the payment of any debt, unless the debt is contracted at the same time with the endorsement of the receipt or bill of lading; and further, no sale of any timber, boards, deals, staves or other lumber, shall be made under this Act, until and unless thirty days' notice of the time and place of such sale has been given, by registered letter transmitted through the post office, to the owner of the timber, boards, deals, staves, or other lumber prior to the sale thereof.

Sale to be by auction after notice.

(2) Every such sale shall be made by public auction, after notice thereof by advertisement, stating the time and place thereof, for at least eight days consecutively, in at least two daily newspapers published in or nearest to the place where such sale is to be made.

(3) A daily newspaper shall be deemed to be published nearest to a place if no two other daily newspapers are published in or nearer to such place.

In places where no daily newspaper is published.

(4) If in any place where any such sale by auction is to be made, there is not a newspaper published daily, but some newspaper or newspapers is or are published there less often than daily, then the advertisement shall also be published in every issue of such local newspaper, or of at least one of such local newspapers, during the time of its being published in daily newspapers. R. S. O. 1887, c. 122, s. 18.

11. All advances made on the security of any such cove receipt, bill of lading, specification, receipt, acknowledgment or certificate as aforesaid, shall give and be held to give to the person making the advances, a claim for the repayment of such advances on the cereal grains, goods, wares or merchandise therein mentioned, prior to and by preference over the claim of any unpaid vendor, or other creditor, save and except claims for wages of labour performed in making and transporting such timber, boards, deals, staves or other lumber. R. S. O. 1887, c. 122, s. 19.

Advance on cove receipts, etc., to give a lien on timber, etc., prior to claims of vendors or creditors.

12. All transportation and warehouse receipts, accepted orders and certificates for crude petroleum, issued by any company heretofore or which may, at any time hereafter, be incorporated under competent authority, and authorized to carry on the business of warehousing, shall be transferable by endorsement, either special or in blank, and upon being endorsed in blank shall become transferable by delivery, and every such endorsement or transfer by delivery shall transfer all right of property and possession of the petroleum mentioned in any such transportation or warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of such transportation or warehouse receipt, accepted order or certificate, as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way; and on the delivery of any petroleum mentioned in such document, by such company, in good faith, to a person in possession of such transportation or warehouse receipt, accepted order or certificate, endorsed or transferred as aforesaid, the company shall be freed from all further liability in respect thereof, and the endorsee, or transferee or holder of every such transportation or warehouse receipt, accepted order or certificate, to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery, shall have transferred to and vested in him all rights of action and be subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. R. S. O. 1887, c. 122, s. 20.

Transfer of warehouse receipts for crude petroleum issued by incorporated companies.

WRITTEN PROMISES AND ACKNOWLEDGMENTS.

R. S. O. 1897, CAP. 146.

An Act respecting Written Promises and Acknowledgments of Liability.

WRITTEN ACKNOWLEDGMENT, ETC., REQUIRED TO TAKE CASE OUT OF STATUTE OF LIMITATIONS IN CERTAIN CASES, s. 1.	RATIFICATION OF PROMISE MADE DURING INFANCY, TO BE IN WRITING, s. 6.
ACKNOWLEDGMENT, ETC., BY ONE OF SEVERAL JOINT CONTRACTORS, s. 2.	REPRESENTATION AS TO CREDIT OR CHARACTER, s. 7.
RECOVERY AGAINST JOINT CONTRACTORS, s. 3.	CONSIDERATION FOR A GUARANTY NEED NOT APPEAR IN WRITING, s. 8.
ENDORSEMENTS BY PAYEE ON A BILL OR NOTE, s. 4.	SECTION 17 OF THE STATUTE OF FRAUDS, EXTENDED TO GOODS TO BE DELIVERED AT A FUTURE TIME, s. 9.
SET OFF WITHIN STATUTES OF LIMITATIONS, s. 5.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

Promise by words only not sufficient to take the case out of the Statute of Limitations. 21 Jac. i, c. 16.

1. No acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take out of the operation of the Act, passed in England in the twenty-first year of the Reign of King James the First, any case falling within the provisions of the said Act respecting actions.

- (a) Of account and upon the case other than such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants ;
- (b) On simple contract or of debt grounded upon any lending or contract without specialty and
- (c) Of debt for arrears of rent ;

or to deprive any party of the benefit thereof, unless such acknowledgment or promise is made or contained by or in some writing signed by the party chargeable thereby, or by

his agent duly authorized to make such acknowledgment or promise. R. S. O. 1887, c. 123, s. 1.

2. Where there are two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor, or administrator shall lose the benefit of the said Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any other or others of them, or by reason of any payment of any principal or interest made by any other or others of them R. S. O. 1887, c. 123, s. 2.

Case of two or more joint contractors or executors.

3. In actions commenced against two or more such joint contractors, executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by the said Act of King James the First or by this Act, as to one or more of such joint contractors, or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment as aforesaid, judgment shall be given for the plaintiff as to the defendant or defendants against whom he recovers, and for the other defendant or defendants against the plaintiff. R. S. O. 1887, c. 123, s. 3.

Judgment where plaintiff is barred as to one or more defendants but not as to all.

4. No endorsement or memorandum of any payment, written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of the said Act of King James. R. S. O. 1887, c. 123, s. 4.

Endorsement, etc., made by the payee not to take a note, etc., out of the statute.

5. The said Act of King James and this Act, shall apply to the case of any claim of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant. R. S. O. 1887, c. 123, s. 5.

Statute to apply to set-off.

6. No action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless the promise or ratification is made by some writing signed by the party to be charged therewith, or by his agent duly authorized to make the promise or ratification. R. S. O. 1887, c. 123, s. 6.

As to ratification of promise made during non-age.

7. No action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon unless the representation or assurance is

As to representation regarding the character, credit, etc., of a third party.

made in writing signed by the party to be charged therewith. R. S. O. 1887, c. 123, s. 7.

Consideration for promise to answer for another need not be in writing.

8. No special promise made by any person to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action, or other proceeding to charge the person by whom the promise has been made, by reason only that the consideration for the promise does not appear in writing, or by necessary inference from a written document. R. S. O. 1887, c. 123, s. 8.

Statute of Frauds, 29 Car. ii, c. 3, extended to contracts for goods to be delivered at a future time,

9. Section 17 of the Act passed in England in the 29th year of the Reign of King Charles the Second, entitled, "*An Act for the Prevention of Frauds and Perjuries*," shall extend to all contracts for the sale of goods of the value of \$40 and upwards, notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of the contract be actually made, procured or provided, or fit or ready for delivery, or although some act may be requisite for the making or completing thereof or rendering the same fit for delivery. R. S. O. 1887, c. 123, s. 9.

ASSIGNMENTS AND PREFERENCES.

R. S. O. 1897, CAP. 147.

An Act respecting Assignments and Preferences by Insolvent Persons.

CONFESSIONS OF JUDGMENT, COGNOVITS, ETC., IN FRAUD OF CREDITORS TO BE VOID, s. 1.	MEETING OF CREDITORS, ss. 17, 18.
ASSIGNMENTS, ETC., IN PREJUDICE OF CREDITORS TO BE VOID, s. 2.	Voting, ss. 19, 20.
RECOVERY OF PROCEEDS WHERE PROPERTY SOLD, s. 10.	PROOF OF CLAIM, s. 21.
ASSIGNMENTS FOR BENEFIT OF CREDITORS, ss. 3-6.	CONTESTATION, ss. 22, 23.
How claims are to rank, s. 7.	ASSETS TO BE RETAINED IN PROVINCE, s. 24.
Appointment and rights of assignee, ss. 8-10.	ACCOUNTS AND STATEMENT, s. 25.
Assignments to take precedence of executions, s. 11.	SET OFF, s. 26.
Amendment by Court, s. 12.	AFFIDAVITS, s. 27.
Assignment to be registered and notice thereof published, ss. 13-16.	DIVIDENDS AND DIVIDEND SHEET, ss. 28-30.
	ASSIGNEE'S REMUNERATION, ss. 31, 32.
	INSPECTOR'S REMUNERATION, s. 33.
	EXAMINATION OF ASSIGNOR, ETC., ss. 34-39.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In case any person, being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor or creditors, gives a confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment with intent, in giving such confession, *cognovit actionem* or warrant of attorney to confess judgment, to defeat or delay his creditors wholly or in part or with intent thereby to give one or more of the creditors of any such person a preference over his other creditors, or over any one or more of such creditors, every such confession, *cognovit actionem* or warrant of attorney to confess judgment, shall be deemed and taken to be null and void as against the creditors of the party giving the same, and shall be invalid and ineffectual to support any judgment or writ of execution. R. S. O. 1887, c. 124, s. 1.

Confessions or warrants to confess judgment given by insolvents to defeat or delay creditors or to give one preference over the other to be void.

Gifts, transfers, etc., made by insolvents which defeat or prejudice creditors to be void.

2.—(1) Subject to the provisions of section 3 of this Act, every gift, conveyance, assignment, or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares, dividends, premiums or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them, shall as against the creditor or creditors injured, delayed or prejudiced be utterly void.

(2) Subject to the provisions of section 3 aforesaid, every gift conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes, or securities, or of shares, dividends, premiums, or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency, to or for a creditor with intent to give such creditor an unjust preference over his other creditors or over any one or more of them, shall, as against the creditor or creditors injured, delayed, prejudiced or postponed, be utterly void.

(3) Subject to the provisions of section 3 aforesaid, if such transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall in and with respect to any action or proceeding which, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction, be presumed *prima facie* to have been made with the intent aforesaid, and to be an unjust preference within the meaning hereof, whether the same be made voluntarily or under pressure.

(4) Subject to the provisions of section 3 aforesaid, if such transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors, be presumed *prima facie* to have been made with the intent aforesaid, and to be an unjust preference within the meaning hereof, whether the same be made voluntarily or under pressure. 54 V., c. 20, s. 1.

“Creditor” for certain purposes to include surety and endorser. Pending proceedings not affected.

(5) Where the word “creditor” occurs in the eighth and ninth lines of subsection 2 of this section, and in the second and third lines of subsection 3, and in the second and third lines of subsection 4, such word shall be deemed to include any surety and the indorser of any promissory note or bill of exchange, who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such

suretyship was entered into or such endorsement was given become a creditor of the person giving the preference within the meaning of said subsections. This subsection shall not affect any action, suit or proceeding pending on the 14th day of April, 1892, but the same shall be adjudicated upon and determined as if this subsection had not been passed. 55 Vic., c. 25, s. 1, 2.

3.—(1) Nothing in the preceding section shall apply to any assignment made to the sheriff of the county in which the debtor resides or carries on business, or with the consent of a majority of his creditors having claims of \$100 and upwards computed according to the provisions of section 20, to another assignee resident with the Province of Ontario, for the purpose in each of the said cases of paying ratably and proportionately and without preference or priority all the creditors of the debtor their just debts; nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to innocent purchasers or parties; nor to any payment of money to a creditor, nor to any *bona fide* conveyance, assignment, transfer or delivery over of any goods, securities or property of any kind, as above mentioned, which is made in consideration of any present actual *bona fide* payment in money, or by way of security for any present actual *bona fide* advance of money, or which is made in consideration of any present actual *bona fide* sale or delivery of goods or other property; provided that the money paid, or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

Assignments for benefit of creditors and *bona fide* sales, etc., protected.

Proviso.

(2) In case of a valid sale of goods, securities or property, and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor, under circumstances which would render void such a payment or transfer by the debtor personally and directly, the payment or transfer, even though valid as respects the purchaser, shall be void as respects the creditor to whom the same is made. R. S. O. 1887, c. 124, s. 3 (1, 5).

Transfer to creditor of consideration for sale invalid.

(3) Every assignment for the general benefit of creditors, which is not void under section 2 of this Act, but is not made to the sheriff, nor to any other person with the prescribed consent of creditors, shall be void as against a subsequent assignment which is in conformity with this Act, and shall be subject in other respects to the provisions of this Act until and unless a subsequent assignment is executed in accordance with this Act.

General assignment not in accordance with Act, when voidable.

(4) In case a payment has been made which is void under this Act, and any valuable security was given up in consideration of the payment, the creditor shall be entitled to have the security restored, or its value made good to him before, or as a

Security given up upon void payment to be returned.

condition of, the return of the payment. R. S. O. 1887, c. 124, s. 3 (2, 3).

Rev. Stat.,
c. 156.

Payment of
wages pro-
tected.

Exchange of
securities pro-
tected.

Certain assign-
ments to be
valid.

(5) Nothing herein contained shall affect *The Act respecting Wages*, or shall prevent a debtor providing for payment of wages due by him in accordance with the provisions of the said Act. Nor shall anything herein contained affect any payment of money to a creditor, where such creditor by reason or on account of such payment, has lost or been deprived of, or has in good faith given up, any valid security which he held for the payment of the debt so paid, unless the value of the security is restored to the creditor. Nor to the substitution in good faith of one security for another security for the same debt so far as the debtor's estate is not thereby lessened in value to the other creditors. Nor shall anything herein contained invalidate a security given to a creditor for a pre-existing debt where by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor, in the *bona fide* belief that the advance will enable the debtor to continue his trade or business, and to pay his debts in full. R. S. O. 1887, c. 124, s. 3 (4); 54 V., c. 20, s. 2.

Assignee must
reside in the
Province.

4. No person other than a permanent and *bona fide* resident of this Province shall have power to act as assignee under an assignment within the provisions of this Act made after the 23rd day of March, 1889, nor shall any such assignee have power to appoint a deputy or to delegate his duties as assignee to any person who is not a permanent and *bona fide* resident of this Province; and no charge shall be made or recoverable against the assignor or his estate for any services or other expenses of any such assignee, deputy or delegate of any assignee who is not a permanent and *bona fide* resident of this Province as aforesaid. 52 V., c. 21, s. 1.

Form of
assignment for
general benefit
of creditors.

5. Every assignment made under this Act, for the general benefit of creditors shall be valid and sufficient if it is in the words following, that is to say—all my personal property which may be seized and sold under execution, and all my real estate, credits and effects—or if it is in words to the like effect; and an assignment so expressed shall vest in the assignee all the real and personal estate, rights, property, credits and effects, whether vested or contingent belonging at the time of the assignment to the assignor, except such as are by law exempt from seizure, or sale under execution, subject, however, as regards lands, to the provisions of the registry law as to the registration of the assignment. R. S. O. 1887, c. 124, s. 4.

[As to the preferential lien of a landlord, see Cap. 170, sec. 34].

All assign-
ments for
general benefit

6. Every assignment hereafter executed for the general benefit of creditors, whether the assignment is or is not

expressed to be made under or in pursuance of this Act, and whether the debtor has or has not included all his real and personal estate, shall vest the estate, whether real or personal, or partly real and partly personal, thereby assigned in the assignee therein named for the general benefit of creditors, and such assignment and the property thereby assigned shall be subject to all the provisions of this Act, and the provisions of this Act shall apply to the assignee named in such assignment. 58 V., c. 23, s. 5.

of creditors to be subject to this Act.

7. If any assignor or assignors executing an assignment under this Act for the general benefit of his or their creditors, owes or owe, debts both individually and as a member of a co-partnership, or as a member of different co-partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. R. S. O. 1887, c. 124, s. 5.

How claims are to rank where different estates.

8.—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards, may at their discretion substitute for the sheriff, or for an assignee under an assignment to which subsection 3 of section 3 of this Act applies, a person residing in the county in which the debtor resided or carried on business at the time of the assignment. An assignee may be removed, and another substituted, or an additional assignee appointed by a Judge of the High Court, or of the County Court where the assignment is registered. R. S. O. 1887, c. 124, s. 6 (1); 53 V., c. 34, s. 1.

Appointment of substituted assignee.

(2) Where a new or additional assignee is appointed the estate shall forthwith vest without a conveyance or transfer, and he shall register an affidavit of his appointment in the office in which the original assignment was filed, such an affidavit may also be registered under *The Registry Act*. The registration of the affidavit under *The Registry Act* shall have the same effect as the registration of a conveyance. R. S. O. 1887, c. 124, s. 6 (2).

Estate to vest in substituted assignee.

Rev. Stat. c. 136.

9.—(1) Except as in this section is hereinafter provided, the assignee shall have the exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors, or made or entered into in violation of this Act.

Rights of assignee.

(2) If at any time a creditor desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the estate, and the assignee under the authority of the creditors or inspectors, refuses or neglects to take such proceeding, after being duly required so to do, the creditor shall have the right to obtain an order of the Judge authorizing him to take the proceedings in the name of the assignee, but at his own expense

Creditor may proceed in certain cases if assignee refuses.

and risk, upon such terms and conditions as to indemnity to the assignee, as the Judge may prescribe, and thereupon any benefit derived from the proceedings shall, to the extent of his claim and full costs, belong exclusively to the creditor instituting the same for his benefit, but if, before such order is granted, the assignee shall signify to the Judge his readiness to institute the proceedings for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the estate. R. S. O, 1887, c. 124, s. 7.

Following
proceeds of
property
fraudulently
transferred.

10.—(1) In the case of a gift, conveyance, assignment or transfer of any property, real or personal, which in law is invalid against creditors, if the person to whom the gift, conveyance, assignment or transfer was made shall have sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in any action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, and such right to seize and recover shall belong, not only to an assignee for the general benefit of the creditors of the said debtor, but in case there is no such assignment, shall exist in favour of all creditors of such debtor. 58 V., c. 23, s. 1.

Taking pro-
ceeds under
execution.

(2) Where there has been no assignment for the benefit of creditors, and the proceeds are of a character to be seizable under execution, they may be seized under the execution of any creditor, and shall be distributable amongst the creditors under *The Creditors' Relief Act* or otherwise. 58 V., c. 23, s. 2.

Rev. Stat.
c. 78.

Creditor suing
on behalf of
himself and
other credit-
ors.

(3) Where there has been no assignment for the benefit of creditors, and whether the proceeds realized aforesaid are or are not of a character to be seized under execution, an action may be brought therefor by a creditor (whether an execution creditor or not), on behalf of himself and all other creditors, or such other proceedings may be taken as may be necessary to render the said proceeds available for the general benefit of the creditors. 58 V., c. 23, s. 3.

Protection of
innocent pur-
chasers.

(4) This section shall not apply as against innocent purchasers of the property. 58 V., c. 23, s. 4.

Assignments
to take pre-
cedence of
judgments and
executions.

11. An assignment for the general benefit of creditors under this Act shall take precedence of all attachments, of all judgments and of all executions not completely executed by payment, subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands, or to the lien, if any, of the creditor for his costs who has the first execution in the sheriff's hands. R. S. O. 1887, c. 124, s. 9; 59 V., c. 31, s. 2.

12. No advantage shall be taken or gained by any creditor of any mistake, defect or imperfection in any assignment under this Act for the general benefit of creditors if the same can be amended or corrected, and any such mistake, defect or imperfection shall be amended by any Judge of the High Court, or of the County Court aforesaid, on application of the assignee or of any creditor of the assignor, on such notice being given to other parties concerned as the Judge shall think reasonable, and the amendment, when made, shall have relation back to the date of the assignment, but so as not to prejudice the rights of innocent purchasers. R. S. O. 1887, c. 124, s. 10; 60 V., c. 3, s. 3.

Amendment of assignment by Judge.

13.—(1) No assignment made for the general benefit of creditors under this Act shall be within the operation of *The Act respecting Mortgages and Sales of Personal Property*; but a notice of the assignment shall, as soon as conveniently may be, be published at least once in the *Ontario Gazette* and not less than twice in one newspaper at the least, having a general circulation in the county in which the property assigned is situate.

Notice of assignment to be published.

Rev. Stat. c. 143.

(2) A counterpart or copy of every such assignment shall also within five days from the execution thereof be registered, (together with an affidavit of a witness thereto of the due execution of the assignment or of the due execution of the assignment of which the copy filed purports to be a copy), in the office of the clerk of the County Court of the county or union of counties where the assignor, if a resident in Ontario, resides at the time of the execution thereof, or if he is not a resident, then in the office of the clerk of the County Court of the county or union of counties where the personal property so assigned is or where the principal part thereof (in case the assignment includes property in more counties than one) is at the time of the execution of such assignment; and such clerks shall file all such instruments presented to them respectively for that purpose, and shall endorse thereon the time of receiving the same in their respective offices, and the same shall be kept there for the inspection of all persons interested therein. The said clerks respectively shall number and enter such assignments, and be entitled to the same fees for services in the same manner as if such assignments had been registered under *The Act respecting Mortgages and Sales of Personal Property* R. S. O. 1887, c. 124, s. 12 (1, 2).

Assignment to be registered.

Rev. Stat. c. 143.

(3) In the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River, and in any other district which may be hereafter formed, and in the Provisional County of Haliburton the counterpart or copy of the assignment shall be filed in the same office and within the same time respectively as by the law at the time of the assignment in force mortgages and bills of sale of personal

Where assignment to be filed in certain districts and in Haliburton.

property are required to be filed in such districts, and provisional county respectively, and the clerk in whose office the same is filed shall perform the like duties and be entitled to be paid the like fees as clerks acting under the preceding subsection. 59 V., c. 31, s. 1.

Penalty for neglecting publication or registration.

14.—(1) If the said notice is not published in the regular number of the *Ontario Gazette*, and of such newspaper as aforesaid, which shall respectively be issued first after five days from the execution of the assignment by the assignor, or if the assignment is not registered as aforesaid within five days from the execution thereof, the assignor shall be liable to a penalty of \$25 for each and every day which shall pass after the issue of the number of the newspaper in which the notice should have appeared until the same shall have been published; and a like penalty for each and every day which shall pass after the expiration of five days from the execution of the assignment by the assignor until the same shall have been registered.

(2) The assignee shall be subject to a like penalty for each and every day which shall pass after the expiration of five days from the delivery of the assignment to him, or of five days after his assent thereto. The burden of proving the time of such delivery or assent shall be upon the assignee.

(3) Such penalties may be recovered summarily before a Judge of the High Court, or of the County Court of the county in which the assignment ought to be published or registered; one-half of the penalty shall go to the party suing, and the other half for the benefit of the estate of the assignor.

Liability of sheriff.

(4) In case of an assignment to the sheriff, he shall not be liable for any of the penalties imposed in this section, unless he has been paid or tendered the cost of advertising and registering the assignment, nor shall he be compelled to act under the assignment until his costs in that behalf are paid or tendered to him. R. S. O. 1887, c. 124, s. 13.

Compelling publication and registration.

15. In case the assignment is not registered, and notice thereof published, an application may be made by any one interested in the assignment to a Judge of the High Court, or of the County Court aforesaid, to compel the registration of the assignment and publication of such notice; and the Judge shall make his order in that behalf, and with or without costs, or upon the payment of costs by such person as he may in his discretion direct to pay the same. R. S. O. 1887, c. 124, s. 14.

Assignment not invalidated by omission to publish, etc.

16. The omission to publish or register as aforesaid, or any irregularity in the publication or registration, shall not invalidate the assignment. R. S. O. 1887, c. 124, s. 15.

Assignee to call meeting of creditors.

17. It shall be the duty of the assignee immediately to inform himself, by reference to the debtor and his records of

account, of the names and residences of the debtor's creditors, and within five days from the date of assignment to convene a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate, by mailing prepaid and registered to every creditor known to him, a circular calling a meeting of creditors to be held in his office or some other convenient place to be named in the notices not later than twelve days after the mailing of such notice, and by advertisement in the *Ontario Gazette*; and all other meetings to be held shall be called in like manner. R. S. O. 1887, c. 124, s. 16.

18.—(1) In case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to the provisions of section 20 of this Act, it shall be the duty of the assignee within two days after receiving such request, to call a meeting of the creditors at a time not later than twelve days after the assignee receives the request. In case of default the assignee shall be liable to a penalty of \$25 for every day after the expiration of the time limited for the calling of the meeting until the meeting is called.

Meeting of creditors by request of majority thereof.

(2) In case a sufficient number of creditors do not attend the meeting mentioned in section 17 of this Act, or fail to give directions with reference to the disposal of the estate, the Judge of the County Court may give all necessary directions in that behalf. R. S. O. 1887, c. 124, s. 17.

Judge to give directions in case creditors do not attend.

19. At any meeting of creditors the creditors may vote in person, or by proxy authorized in writing, but no creditor whose vote is disputed shall be entitled to vote until he has filed with the assignee an affidavit in proof of his claim stating the amount and nature thereof. R. S. O. 1887, c. 124, s. 18.

Voting at meeting.

20.—(1) Subject to the provisions of section 8, all questions discussed at meetings of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows :

Scale of votes.

For every claim of or over \$100, and not exceeding \$200 . .	1 vote.
" " 200 " " 500 . .	2 votes.
" " 500 " " 1,000 . .	3 votes.
" additional 1,000, or fraction thereof	1 vote.

(2) No person shall be entitled to vote on a claim acquired after the assignment unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable.

Upon claims acquired after assignment.

(3) In case of a tie the assignee, or if there are two assignees, then the assignee nominated for that purpose by creditors, or

Casting vote.

by the Judge, if none has been nominated by the creditors, shall have a casting vote.

Creditors to value securities.

(4) Every creditor in his proof of claim shall state whether he holds any security for his claim or any part thereof; and if such security is on the estate of the debtor, or on the estate of a third party for whom such debtor is only secondarily liable, he shall put a specified value thereon and the assignee under the authority of the creditors may either consent to the right of the creditor to rank for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent. upon the specified value to be paid out of the estate as soon as the assignee has realized such security; and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor shall be the amount for which he shall rank and vote in respect of the estate.

Right to re-value in certain cases.

(5) If a creditor holds a claim based upon negotiable instruments upon which the debtor is only indirectly or secondarily liable, and which is not mature or exigible, such creditor shall be considered to hold security within the meaning of this section, and shall put a value on the liability of the party primarily liable thereon as being his security for the payment thereof; but after the maturity of such liability and its non-payment, he shall be entitled to amend and revalue his claim. R. S. O. 1887, c. 124, s. 19.

When creditor holding security fails to value same.

(6) In case a person claiming to be entitled to rank on the estate assigned holds security for his claim or any part thereof, of such a nature that he is required by this Act to value the same, and he fails to value such security, the Judge of the County Court of the county wherein the debtor at the time of making the assignment resided or carried on business, may, upon summary application by the assignee or by any other person interested in the debtor's estate, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed on such security and notified in writing to the assignee within a time to be limited by the order, such claimant shall, in respect of the claim, or the part thereof for which the security is held, in case the security is held for part only of the claim, be wholly barred of any right to share in the proceeds of such estate; and if a specified value is not placed on such security and notified in writing to the assignee according to the exigency of the said order, or within such further time as the said Judge may by subsequent order allow, the said claim, or the said part, as the case may be, shall be wholly barred as against such estate but without prejudice to the liability of the debtor therefor. 59 V., c. 31, s. 3.

Proof of claim.

21.—(1) Every person claiming to be entitled to rank on the estate assigned shall furnish to the assignee particulars of his

claim proved by affidavit and such vouchers as the nature of the case admits of.

(2) In case a person claiming to be entitled to rank on the estate assigned, does not within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this and the preceding sections of this Act, the Judge of the County Court of the county wherein the debtor at the time of making the assignment resided or carried on business, may upon a summary application by the assignee or by any other person interested in the debtor's estate (of which application at least three days' notice shall be given to the person alleged to have made default in proving a claim as aforesaid), order that unless the claim be proved to the satisfaction of the Judge within a time to be limited by the order, the person so making default shall no longer be deemed a creditor of the estate assigned, and shall be wholly barred of any right to share in the proceeds thereof; and if the claim is not so proved within the time so limited, or within such further time as the said Judge may by subsequent order allow, the same shall be wholly barred, and the assignee shall be at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the debtor therefor.

Limiting time for proof of claim.

(3) The preceding subsection is not intended to interfere with the protection afforded to assignees, by section 38 of *The Trustee Act*.

Not to interfere with Rev Stat. c. 129.

(4) A person whose claim has not accrued due shall nevertheless be entitled to prove under the assignment and vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time which has to run until the claim becomes due. R. S. O. 1887, c. 124, s. 20 (1-4).

Creditor may prove claim not due.

22.—(1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate, proof of his claim, notice of contestation of the claim may be served by the assignee upon the claimant. Within thirty days after the receipt of the notice, or such further time as a Judge of the County Court of the county in which the assignment is registered may on application allow, an action shall be brought by the claimant against the assignee to establish the claim, and a copy of the writ in the action or summons, in case the action is brought in a Division Court, shall be served on the assignee; and in default of such action being brought and writ or summons served within the time aforesaid, the claim to rank on the estate shall be forever barred.

Contestation of claim.

(2) The notice by the assignee shall contain the name and place of business of one of the solicitors of the Supreme Court

of Judicature for Ontario, upon whom service of the writ or summons may be made; and service upon such solicitor shall be deemed sufficient service of the writ. R. S. O. 1887, c. 124, s. 20 (5).

Procedure where assignee is satisfied with proof of claim and debtor desires to dispute same.

23—(1) In case the assignee is satisfied with the proof adduced in support of a claim, but the debtor disputes the same, such debtor shall do so by notice in writing to the assignee, stating the grounds upon which he disputes the claim; and such notice shall be given within ten days of such debtor's being notified in writing by the assignee that he is satisfied with the proof adduced as aforesaid, and not afterwards unless by special leave of the said Judge.

(2) If upon receiving such notice of dispute the assignee does not deem it proper to require the claimant to bring an action to establish his claim, he shall notify the debtor in writing of this fact, and the debtor may thereupon, and within ten days of his receiving such notice, apply to the said Judge for an order requiring the assignee to serve a notice of contestation. The Judge shall only make such order if after notice to the assignee the Judge is of opinion that there are good grounds for contesting the claim. In case the debtor does not make an application as aforesaid, the decision of the assignee shall as against him be final and conclusive.

(3) If upon the application the claimant consents in writing, the Judge may, in a summary manner, decide the question of the validity of the claim.

(4) If an action is brought by the claimant against the assignee the debtor may intervene at the trial, either personally or by counsel, for the purpose of calling and examining or cross-examining witnesses. 59 V., c. 31, s. 4.

Assets not to be removed out of the Province and moneys to be deposited in a bank.

24—(1) No property or assets of an estate assigned under the provisions of this Act shall be removed out of the Province without the order of the Judge of the County Court of the county in which the assignment is registered, and the proceeds of the sale of any such property or assets, and all moneys received on account of any estate shall be deposited by the assignee in one of the incorporated banks within this Province, and shall not be withdrawn or removed without the order of such Judge, except in payment of dividends and other charges incidental to the winding up of the estate.

Penalty.

(2) Any assignee or other person acting in his stead or on his behalf violating the provisions of this section shall be liable to a penalty of \$500, which may be recovered summarily before a Judge of the High Court or before the Judge of the County Court of the county in which the assignment is required to be registered; and one-half of the said penalty shall go to the person suing therefor, and the other half shall

belong to the said estate; but in default of payment of the said penalty and all costs which may be incurred in any action or proceeding for the recovery thereof, such assignee or other person may be imprisoned for any period not exceeding thirty days, and shall be disqualified from acting as assignee of any estate while such default continues. 52 V., c. 21. s. 2.

(3) This section shall not apply to any assignment executed before the 23rd day of March, 1889, or to any proceedings thereunder. 52 V., c. 21, s. 3. Application of section limited.

25. Upon the expiration of one month from the first meeting of creditors, or as soon as may be after the expiration of such period, and afterwards from time to time at intervals of not more than three months, the assignee shall prepare, and keep constantly accessible to the creditors, accounts and statements of his doings as such assignee, and of the position of the estate. R. S. O. 1887, c. 124, s. 21. Accounts to be kept accessible.

26. The law of set-off shall apply to all claims made against the estate and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off shall be affected by the provisions respecting frauds or fraudulent preferences of this or any other Act. R. S. O. 1887, c. 124, s. 23. Set-off.

27. Any affidavit authorized, or required, under this Act may be sworn before any person authorized to administer affidavits in the High Court, or before a Justice of the Peace, or, if sworn out of Ontario, before a Notary Public. R. S. O. 1887, c. 124, s. 24. Affidavits.

28. As large a dividend as can with safety be paid, shall be paid by every assignee under this Act within twelve months from the date of any assignment made thereunder, and earlier if required by the inspectors; and thereafter a further dividend shall be paid every six months, and more frequently if required by the inspectors until the estate is wound up and disposed of. 59 V., c. 31, s. 5. Dividends when to be paid.

29. So soon as a dividend sheet is prepared, notice thereof shall be given by letter posted to each creditor, inclosing an abstract of receipts and disbursements, showing what interest has been received by the assignee, for moneys in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor; and after the expiry of eight days from the day of mailing such notice, abstract and dividend sheet as aforesaid, dividends on all claims not objected to within that period shall be paid. R. S. O. 1887, c. 124, s. 22. Notice of dividend sheet.

Distributing
moneys and
determining
claims as pro-
vided by Rev.
Stat. c. 78.

30.—(1) The assignee may, if he deems it advisable so to do, take the proceedings authorized by section 32 of *The Creditors' Relief Act* to be taken by a sheriff, and in that case sections 32 and 33 of the said Act shall apply to proceedings for the distribution of moneys and determination of claims arising under an assignment made under this Act, with the substitution of "assignee" for "sheriff" where it occurs in said section 32; and the substitution of "according to law" for "as directed by this Act," where these words occur in said section 32; but this section shall not be construed to relieve the assignee from mailing to each creditor the abstract and other information required by section 29 of this Act to be sent to creditors, so far as the same is not contained in the list sent by him under section 32 aforesaid.

(2) The Judge of the County Court of the county wherein the debtor at the time of the assignment resided or carried on business shall be the Judge to whom applications under this section shall be made. 59 V., c. 31, s. 6.

Remuneration
of assignee.

31. The assignee shall receive such remuneration as shall be voted to him by the creditors at any meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case of the creditors failing to provide therefor, subject to the review of the County Court of the county in which the assignment is registered or the Judge thereof, if complained of by the assignee or any of the creditors. R. S. O. 1887, c. 124, s. 11 (1).

Where remun-
eration not
fixed before
the final
dividend.

32. In case the remuneration of the assignee has not been fixed under the preceding subsection before the final dividend, the assignee may insert in the final dividend sheet, and retain as his remuneration, a sum not exceeding five per cent. of the cash receipts, subject to review by the Court or Judge as hereinbefore provided; but no application by the assignee to review the said allowance shall be entertained, unless the question of his remuneration, previous to the preparation of the final dividend sheet has been brought before a meeting of creditors competent to decide the same. 59 V., c. 31, s. 8.

Remuneration
of inspectors.

33. No assignee shall make any payment or allowance to an inspector beyond his actual and necessary travelling expenses in and about his duties as inspector, except under the authority of a resolution of the creditors passed at a meeting regularly called, fixing the amount thereof, and in the notice calling the meeting the fixing of the remuneration of the inspectors shall be specially mentioned as one of the subjects to be brought before the meeting. No inspector shall be allowed more than four dollars a day besides actual travelling expenses, but may be allowed less. 59 V., c. 31, s. 7.

34. Where there has been an assignment for the benefit of creditors the assignee, or assignees, upon resolution passed by a majority vote of the creditors present or represented at a meeting of the creditors of the assignor regularly called, or upon the written request or resolution of the majority of the inspectors of the estate, may without an order examine the assignor or any person who is or has been an agent, clerk, servant, officer or employee of any kind of the assignor, upon oath before a master or local master or a special examiner of the Supreme Court of Judicature, or before a local registrar or deputy clerk of the crown of the High Court, or before the Judge of the County Court of the county within which such assignor resides, or before any official referee, or may by the order of the Court or a Judge examine the assignor on oath before any other person to be specially named in such order, touching the estate and effects of the assignor, and as to the property and means he had when the earliest of the debts or liabilities of the assignor existing at the date of the assignment was incurred, and as to the property and means he still has of discharging his debts and liabilities, and as to the disposal he has made of any property since contracting such debt or incurring such liability and as to any and what debts are owing to him. 58 V., c. 23, s. 6 ; 59 V., c. 31, s. 9.

Examination of assignor or employees.

35. The rules and procedure from time to time in force in the High Court of Justice for the examination of judgment debtors shall, as far as may be, apply to an examination under this Act of an assignor in all respects as if the assignor were a judgment debtor. 58 V., c. 23, s. 11.

Procedure upon examination of an assignor.

36. In case such assignor does not attend as required by the said appointment, or appointment and order, as the case may be, and does not allege a sufficient excuse for not attending, or if attending, refuses to disclose his property or his transactions respecting the same, or does not make satisfactory answers respecting the same, or if it appears from such examination that such assignor has concealed or made away with his property in order to defeat or defraud his creditors or any of them, the Court or Judge may order the assignor to be committed to the common gaol of the county in which he resides, for any term not exceeding twelve months. 58 V., c. 23, s. 10.

When assignor does not attend or refuses to answer questions.

37.—(1) Any person liable to be examined under section 34 may be served with an appointment signed by the Judge or officer, or a copy thereof, and where the examination is to take place under an order, also with a copy of the order ; such service to be made at least 48 hours before the time appointed for the examination ; and the person to be examined is to be paid the same fees as a witness. 58 V., c. 23, s. 8.

Service of appointment.

(2) The examination shall be conducted in the same manner as in the case of an oral examination of an opposite party. 58 V., c. 23, s. 9.

Conduct of examination.

Compelling attendance and production of books.

38. Any person liable to be examined under section 34 may be compelled to attend and testify and to produce books and documents, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined, as in the case of a witness in an action in the High Court of Justice. 58 V., c. 23, s. 7.

Calling upon persons having information as to assignor's affairs to give evidence and produce documents, etc.

39.—(1) In case any person has or is believed or suspected to have in his possession or power any book, document, or paper of any kind relating in whole or in part to the debtor, his dealings or property, such person may, upon resolution passed by a majority vote of the creditors present or represented at a regularly called meeting of the creditors of the assignor exclusive of such person (if he is a creditor) or upon the written request or resolution of the majority of the inspectors of the estate, be required by the assignee to produce such statement or statements for the information of such assignee.

(2) In case such person fails to produce the said book, document or other paper within four days of his being served with a copy of the said resolution and a request of the assignee in that behalf, or in case the assignee or the majority of the inspectors is or are not satisfied that full production has been made, the assignee may without an order examine the said person before any of the officers mentioned in section 34 of this Act touching any book, document or other paper which he is supposed to have received.

(3) Any such person may be compelled to attend and testify, and to produce upon his examination any book, document or other paper which under this section he is liable to produce in the same manner and subject to the same rules of examination and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined as in the case of a witness in an action in the High Court of Justice. 59 V., c. 31, s. 10.

CHATTEL MORTGAGES AND BILLS OF SALE.

R. S. O. 1897, CAP. 148.

An Act respecting Mortgages and Sales of Personal Property.

SHORT TITLE, s. 1.	CERTIFICATE OF CLERK TO BE EVIDENCE OF REGISTRATION, s. 24.
CHATTEL MORTGAGES WHERE POSSESSION OF GOODS UNCHANGED :	DISCHARGE OF MORTGAGES, ss. 25-28.
Affidavits as to indebtedness, ss. 2, 3.	FEES, s. 29.
To be registered or void as against creditors, ss. 2, 5.	MISCELLANEOUS :
To operate from executions, s. 4.	Registration where time expires on a day on which offices are closed, s. 30.
SALES OF GOODS WHERE POSSESSION UNCHANGED :	Authority to take or renew mortgages may be general, s. 31.
To be registered or void as against creditors, s. 6.	Description in instruments, s. 32.
MORTGAGES OF GOODS TO SECURE ADVANCES OR SURETIES, ss. 7, 8.	Affidavits, s. 33.
AUTHORITY TO BE FILED, s. 9.	Act not to apply to vessels, s. 34.
AFFIDAVIT OF BONA FIDES MAY BE MADE BY ONE OR TWO OR MORE MORTGAGEES, etc., s. 10.	Where new county formed, s. 35.
CONTRACTS TO GIVE MORTGAGES OR MAKE SALES, ss. 11-14.	Inspection of books, s. 36.
PLACE OF REGISTRATION, ss. 15, 16.	Act to extend to goods not ready for delivery, s. 37.
WHEN MORTGAGED GOODS REMOVED TO ANOTHER COUNTY OR DISTRICT, s. 17.	“Creditor,” meaning of, s. 38.
RENEWAL OF MORTGAGES, ss. 18-23.	“Actual and continued change of possession,” meaning of, s. 39.
	Taking possession not to validate, s. 40.
	AGREEMENTS WHERE POSSESSION PASSES WITHOUT OWNERSHIP, s. 41.
	STATISTICAL RETURNS, s. 42.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as “*The Bills of Sale and Chattel Mortgage Act.*” 57 V., c. 37, s. 1.

EFFECT OF REGISTERING OR OMITTING TO REGISTER.

2. Every mortgage, or conveyance intended to operate as a mortgage of goods and chattels, in Ontario, which is not accompanied by an immediate delivery and an actual and continued

Mortgages of goods not attended with change of possession, to be registered.

change of possession of the things mortgaged, or a true copy thereof, shall, within five days from the execution thereof, except as hereinafter otherwise provided, be registered as hereinafter provided, together with the affidavit of an attesting witness thereto, of the due execution of such mortgage or conveyance, or of the due execution of the mortgage or conveyance of which the copy filed purports to be a copy, which affidavit shall also contain the date of the execution of the mortgage, and also with the affidavit of the mortgagee or of one of several mortgagees, or of the agent of the mortgagee or mortgagees, if such agent is aware of all the circumstances connected therewith and is properly authorized in writing to take such mortgage, in which case the affidavit of the agent shall state that he is aware of all the circumstances connected therewith, and a copy of such authority or the authority itself shall be registered therewith. 57 V., c. 37, s. 2.

Contents of affidavit of *bona fides*.

3. Such last mentioned affidavit, whether of the mortgagee or his agent, or one of several mortgagees or the agent of the mortgagee or mortgagees shall state in addition to what is required by section 2 of this Act that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that the mortgage was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor, or of preventing the creditors of such mortgagor from obtaining payment of any claim against him. 57 V., c. 37, s. 3.

When mortgage to take effect.

4. Every such mortgage or conveyance shall operate and take effect upon, from and after the day and time of the execution thereof. 57 V., c. 37, s. 4.

Effect of non-registration.

5. In case such mortgage and conveyance and affidavits are not registered as by this Act provided, the mortgage or conveyance shall be absolutely null and void as against creditors of the mortgagor, and against subsequent purchasers or mortgagees in good faith for valuable consideration. 57 V., c. 37, s. 5.

Sale of goods not attended with delivery to be registered.

6. Every sale of goods and chattels, not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under the provisions of this Act, and shall be accompanied by an affidavit of an attesting witness thereto of the due execution thereof, and an affidavit of the bargainee, or his agent (if such agent is aware of all the circumstances connected therewith), duly authorized in writing to take the conveyance (a copy of which authority or the authority itself shall be attached to and filed with the conveyance) that the sale is *bona fide* and for good consideration, as set forth in the said conveyance, and not for

the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, and the conveyance and affidavits shall be registered, as by this Act provided, within five days from the executing thereof, otherwise the sale shall be absolutely void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. 57 V., c. 37, s. 6.

7. In case of an agreement in writing for future advances for the purpose of enabling the borrower to enter into and carry on business with such advances, the time of repayment thereof not being longer than one year from the making of the agreement, and in case of a mortgage of goods and chattels for securing the mortgagee repayment of such advances, the time of repayment thereof not being longer than one year from the making of the agreement, and in case the mortgage is executed in good faith, and sets forth fully by recital or otherwise, the terms, nature and effect of the agreement, and in case the mortgage is accompanied by the affidavit of an attesting witness thereto of the due execution thereof, and by the affidavit of the mortgagee, or in case the agreement has been entered into and the mortgage taken by an agent duly authorized in writing to make such agreement and to take such mortgage and if the agent is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such affidavit, whether of the mortgagee or his agent, stating that the mortgage truly sets forth the agreement entered into between the parties thereto and truly states the extent of the liability intended to be created by the agreement and covered by such mortgage, and that the mortgage is executed in good faith, and for the express purpose of securing the mortgagee repayment of his advances, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor, nor to prevent such creditors from recovering any claims which they may have against the mortgagor, and in case the mortgage is registered as by this Act provided, the same shall be as valid and binding as mortgages mentioned in the preceding sections of this Act. 57 V., c. 37, s. 7.

Mortgages to secure future advances to be registered.

8. In case of a mortgage of goods and chattels for securing the mortgagee against the indorsement of any bills or promissory notes or any other liability by him incurred for the mortgage, not extending for a longer period than one year from the date of such mortgage and in case the mortgage is executed in good faith, and sets forth fully by recital or otherwise, the terms, nature and effect of the agreement, and the amount of liability intended to be created, and in case such mortgage is accompanied by the affidavit of the attesting witness thereto of the due execution thereof, and by the affidavit of the mortgagee, or in case the mortgage has been taken by an agent duly authorized in writing to take such mortgage and if the agent

Mortgages given to secure indorsers and sureties to be registered.

is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such affidavit, whether of the mortgagee or his agent, stating that the mortgage truly states the extent of the liability intended to be created and covered by such mortgage, and that such mortgage is executed in good faith and for the express purpose of securing the mortgagee against the payment of the amount of his liability for the mortgagor, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor, nor to prevent such creditors from recovering any claims which they may have against such mortgagor, and in case such mortgage is registered as by this Act provided, the same shall be as valid and binding as mortgages mentioned in the preceding sections of this Act, 57 V., c. 37, s. 8.

Agents' authority to be attached to mortgage.

9. The authority in writing referred to in the two next preceding sections, or a copy of such authority shall be attached to and filed with the mortgage. 57 V., c. 37, s. 9.

Affidavits of *bona fides*.

10. The affidavit of *bona fides* required by sections 6, 7 and 8 may be made by one of two or more bargainees or mortgagees and if made by an agent as herein provided the same shall state that he is aware of all the circumstances connected with the sale or mortgage, as the case may be. 57 Vic., c. 37, s. 10.

CONTRACTS TO GIVE MORTGAGES, ETC.

Contract to give a chattel mortgage to be deemed a mortgage.

11. Every covenant, promise or agreement entered into on or after the 7th day of April, 1896, to make, execute or give a mortgage or conveyance intended to operate as a mortgage of goods and chattels in whatever words the same may be expressed shall be deemed to be a mortgage or conveyance within the meaning of this Act, and unless accompanied by an immediate delivery and an actual and continued change of possession of the goods and chattels mortgaged, the same or a true copy thereof together with affidavits of execution and *bona fides* shall be registered within the time and in the manner hereby prescribed in respect of bills of sale and mortgages, otherwise such covenant, promise or agreement shall be absolutely null and void as against creditors of the mortgagor and against subsequent purchasers or mortgagees in good faith for valuable consideration. 59 V., c. 34, s. 1.

Contract to make a sale to be deemed a sale.

12. Every covenant, promise or agreement to make a sale of goods and chattels, in whatever words the same may be expressed, shall be deemed to be a sale of goods and chattels within the meaning of this Act, and unless accompanied by an immediate delivery, and followed by an actual and continued change of possession of the said goods and chattels shall be in writing and such writing accompanied by affidavits of execution and *bona fides* shall be registered within the time and in

the manner prescribed as respects bills of sale by this Act, otherwise the said covenant, promise or agreement shall be absolutely void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. 59 V., c. 34, s. 2.

13. In the case of covenants, promises or agreements made before the 7th day of April, 1896, the provisions of this Act with regard to registration may be deemed to be complied with if such registration was effected within three calendar months after the said date and subject thereto this Act shall extend and apply to every such covenant, promise and agreement made before as well as after the said date. 59 V., c. 34, s. 3.

Contracts made prior to 7th April, 1896.

14. Every verbal agreement to the effect mentioned in the three next preceding sections and not reduced to writing shall be absolutely null and void to all intents and purposes whatever, as against creditors or subsequent purchasers or mortgagees mentioned in such sections. 59 V., c. 34, s. 4.

Verbal agreements.

PLACE OF REGISTRATION.

15.—(1) The instruments mentioned in the preceding sections shall in counties be registered in the office of the Clerk of the County Court of the county or union of counties where the property so mortgaged or sold is at the time of the execution of such instrument; and every such Clerk shall file all such instruments presented to him for that purpose, and shall indorse thereon the time of receiving the same in his office. 57 V., c. 37, s. 11.

Instruments to be registered in the County Court office.

(2) Where the goods and chattels mortgaged or sold are situate within the Districts of Algoma, Thunder Bay or Nipissing, the said instruments shall be filed within ten days from the execution thereof in the office of the District Court Clerk in the district in which the goods are situate.

Registration in Algoma, Thunder Bay, Nipissing.

(3) Where the goods or chattels mortgaged or sold are situate within the Districts of Parry Sound, Muskoka or Rainy River, the said instruments shall be filed within ten days from the execution thereof in the office of the Clerk of the First Division Court of the district in which the goods are situate.

Registration in Parry Sound, Muskoka and Rainy River.

(4) Where the goods and chattels mortgaged or sold are situate within the Provisional County of Haliburton, the said instruments shall be filed within seven days from the execution thereof in the office of the Clerk of the First Division Court of the said provisional county. 59 V., c. 32, s. 1.

Registration in Haliburton.

(5) Where the goods and chattels mortgaged or sold are situate within the District of Manitoulin, the said instruments shall be filed within ten days from the execution thereof in the office of the Deputy Clerk for Manitoulin.

Registration in Manitoulin.

Instruments
filed with
Deputy Clerk
prior to 4th
May, 1891.

(6) Any bill of sale or chattel mortgage filed with the said Deputy Clerk for Manitoulin prior to the 4th day of May, 1891, shall be as valid as if the same had been filed with the Clerk of the County Court.

Proceedings
pending on 4th
May, 1891, not
affected.

(7) Nothing in the two next preceding subsections contained shall be construed to affect any action or other proceeding pending on the 4th day of May, 1891, in which the validity of any instrument required to be filed under chapter 125 of the Revised Statutes of Ontario, 1887, and amending Acts is called in question by reason of the place of filing such instrument. 57 V., c. 37, s. 28.

Meaning of
"Clerk of the
County
Court."

(8) "Clerk of the County Court" or "Clerk" when used in this Act shall unless where inconsistent with the context, include the officers mentioned in this section. 60 V., c. 3, s. 3.

Manner of
registration.

16. The said Clerks respectively shall number every such instrument or copy filed in their offices, and shall enter in alphabetical order in books to be provided by them, the names of all the parties to such instruments, with the numbers indorsed thereon opposite to each name, and such entry shall be repeated alphabetically under the name of every party thereto. 57 V., c. 37, s. 12.

Procedure
when mort-
gaged goods
are removed.

17. In the event of the permanent removal of goods and chattels mortgaged as aforesaid from the county or union of counties or territorial district in which the goods and chattels were at the time of the execution of the mortgage, to another county or union of counties or territorial district, or to the said provisional county of Haliburton, or from the said provisional county to another county or union of counties or territorial district, before the payment and discharge of the mortgage, a certified copy of the mortgage, under the hand of the Clerk in whose office it was first registered, and under the seal of the Court, and of the affidavits and documents and instruments relating thereto filed in such office, shall be filed with the Clerk of the County Court of the county or union of counties to which the goods and chattels are removed, or in the proper office as mentioned in section 15, in case such goods and chattels are removed to a territorial district or to the said provisional county, within two months from such removal, otherwise the said goods and chattels shall be liable to seizure and sale under execution, and in such case the mortgage shall be null and void as against creditors of the mortgagor and against subsequent purchasers and mortgagees in good faith for valuable consideration, as if never executed. 57 V., c. 37, s. 13; 60 V., c. 3, s. 3.

RENEWAL OF MORTGAGES.

Statement of
amount due to
be filed yearly.

18. Subject to the provisions hereinafter contained as to mortgages to companies, every mortgage, or copy thereof, filed

in pursuance of this Act shall cease to be valid, as against the creditors of the persons making the same and against subsequent purchasers and mortgagees in good faith for valuable consideration, after the expiration of one year from the day of the filing thereof, unless within thirty days next preceding the expiration of the said term of one year, a statement exhibiting the interest of the mortgagee, his executors, administrators or other assigns in the property claimed by virtue thereof, and shewing the amount still due for principal and interest thereon, and shewing all payments made on account thereof, is filed in the office of the Clerk of the County Court of the county or union of counties wherein the goods and chattels are then situate, with an affidavit of the mortgagee, or one of several mortgagees, or of the assignee or one of several assignees, or of the agent of the mortgagee or assignee, or mortgagees or assignees (as the case may be), duly authorized in writing, for that purpose (a copy of which authority or the authority itself shall be filed therewith), that the statement is true, and that the mortgage has not been kept on foot for any fraudulent purpose. 57 V., c. 37, s. 14.

19. The statement and affidavit mentioned in the next preceding section may be in the form given in the Schedule B to this Act, or to the like effect: Provided, that if any *bona fide* error or mistake shall be made in the said statement, either by the omission to give any credit or credits or by any miscalculation in the computation of interest or otherwise, the said statement and the mortgage therein referred to shall not be invalidated, provided that the mortgagee, his executors, administrators or other assigns shall, within two weeks after the discovery of any such error or mistake, file an amended statement and affidavit in the form given in Schedule B or to the like effect, and referring to the former statement and clearly pointing out the error or mistake therein and correcting the same; but if, prior to the filing of such amended statement and affidavit, any creditor or purchaser or mortgagee in good faith for valuable consideration shall have made any *bona fide* advance of money or given any valuable consideration to the mortgagor, or shall have incurred any costs in proceedings taken on the faith of the amount due on any mortgage being as stated in the renewal statement and affidavit filed, then the said mortgage as to the amount so advanced or the valuable consideration given or costs incurred as aforesaid by such creditor, purchaser or mortgagee, shall, as against such creditor, purchaser or mortgagee, stand good only for the amount mentioned in the renewal statement and affidavit first filed. 57 V., c. 37, s. 15.

Form of statement and affidavit.

Proviso.

20. The statement and affidavit shall be deemed one instrument, and be filed and entered in like manner as the instruments in this Act mentioned are, by section 16, required to be

Manner of filing and entering affidavit and statement.

filed and entered, and the like fees shall be payable for filing and entering the same as are now payable for filing and entering such instruments. 57 V., c. 37, s. 16.

Statement
to be filed
annually.

21. Another statement in accordance with the provisions of section 18 of this Act, duly verified as required by that section, shall be filed in the office of the Clerk of the County Court of the county wherein the goods and chattels described in the mortgage are then situate, within thirty days next preceding the expiration of the term of one year from the day of the filing of the statement required by the said section 18, or such mortgage, or copy thereof, shall cease to be valid as against the creditors of the persons making the same, and as against purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another statement as aforesaid, duly verified, shall be filed within thirty days next preceding the expiration of one year from the day of the filing of the former statement, or such mortgage or copy thereof shall cease to be valid as aforesaid. 57 V., c. 37, s. 17.

By whom
affidavits on
renewals may
be made.

22. The affidavit required by section 18 may be made by any next of kin, executor or administrator of any deceased mortgagee, or by any assignee claiming by or through any mortgagee, or any next of kin, executor or administrator of any such assignee; but if the affidavit is made by any assignee, next of kin, executor or administrator of any such assignee, the assignment or the several assignments through which the assignee claims shall be filed in the proper office of the county in which the goods are, at or before the time of such re-filing by the assignee, next of kin, executor or administrator of the assignee; Provided that an assignment for the benefit of creditors under chapter 147 of the Revised Statutes of Ontario, 1897, or any other Act of the Province of Ontario or the Dominion of Canada relating to assignments for the benefit of creditors or to insolvency or bankruptcy, need not be filed as aforesaid, provided such assignment be referred to in such statement, and notice thereof (when required), shall have been given in manner required by law. 57 V., c. 37, s. 18.

Proviso.

MORTGAGES TO SECURE BONDS, ETC., OF CORPORATIONS.

Affidavits of
bona fides
where mort-
gage given by
company to se-
cure bonds or
debentures.

23. —(1) In the case of a mortgage or conveyance of goods and chattels of any company incorporated by or under any Imperial Act or charter, or by or under any Act or charter of the Dominion of Canada, or by or under any Act or charter of the Province of Ontario, made to a bondholder or bondholders, or to a trustee or trustees, for the purpose of securing the bonds or debentures of such company, instead of the affidavit of *bona fides* required by the sections 2 and 3 of this Act, it shall be sufficient for the purposes of this Act if an affidavit be filed as thereby required, made by the mortgagee or one of the

mortgagees, to the effect that the said mortgage or conveyance was executed in good faith and for the express purpose of securing the payment of the bonds or debentures referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagors, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them.

(2) In the case of any such conveyance or mortgage made by an incorporated company, the head office whereof is not within the Province of Ontario, such mortgage or conveyance may be filed within thirty days instead of five days, as provided in section 2 of this Act, and the same shall be of the like force, effect and priority as if the same had been filed within such five days.

Time for filing mortgage where head office of company not in Ontario.

(3) Any such mortgage may be renewed in the manner and with the effect provided by section 18 and subsequent sections of this Act upon the filing of a statement by the mortgagee or one of the mortgagees exhibiting the interest of the mortgagee or mortgagees in the property claimed by virtue of the said mortgage, and showing the amount of the bond or debenture debt which the same was made to secure, and showing all payments on account thereof which, to the best of the information and belief of the person making such statement, have been made, or of which he is aware or has been informed, together with an affidavit of the person making such statement, that the statement is true to the best of his knowledge, information and belief, and that the mortgage has not been kept on foot for any fraudulent purpose, and such statement shall be filed instead of the statement required by said section 18 of this Act.

Renewal of mortgages.

(4) If any mortgage as aforesaid be made to an incorporated company, the several affidavits and statements herein mentioned may be made by the president, vice-president, manager or assistant manager of such mortgagee company, or any other officer of the company authorized for such purpose. 57 V., c. 37, s. 19.

Affidavits and statements on behalf of companies.

(5) Where such mortgage or conveyance is made as a security for debentures and the by-law authorizing the issue of the debentures, as a security for which the mortgage or conveyance was made, or a copy thereof, certified under the hand of the president or vice-president and secretary of the company and verified by an affidavit of the secretary thereto attached or indorsed thereon, and having the corporate seal attached thereto, is registered with the mortgage or conveyance, it shall not be necessary to renew the said mortgage or conveyance, but the same shall in such case continue to be as valid as if the same had been duly renewed as in this Act provided.

Renewal of mortgages given to secure debentures of companies.

(6) The preceding subsection shall apply to every such mortgage or conveyance made and registered after the 5th day of May, 1894, but nothing herein contained shall affect any

accrued rights or any litigation pending on the 13th day of April, 1897. 60 V., c. 14, s. 86.

PROOF OF REGISTRATION.

The Clerk's certificate to be evidence of registration.

24. A copy of any original instrument, or of a copy thereof so filed as aforesaid, including any statement made in pursuance of this Act, certified by the Clerk in whose office the same has been filed under the seal of the Court, shall be received in evidence in all Courts, but only of the fact that the instruments or copy and statement were received and filed according to the indorsement of the Clerk thereon, and of no other fact; and in all cases the original indorsement by the Clerk, made in pursuance of this Act, upon any such instrument or copy, shall be received in evidence only of the fact stated in the indorsement. 57 V., c. 37, s. 20.

DISCHARGE OF MORTGAGES.

Certificates of discharge of chattel mortgages.

25. Where any mortgage of goods and chattels is registered under the provisions of this Act, such mortgage may be discharged by the filing, in the office in which the same is registered, of a certificate signed by the mortgagee, his executors or administrators, in the form given in the Schedule A hereto, or to the like effect. 57 V., c. 37, s. 21.

Entering certificates of discharge.

26. The officer with whom the chattel mortgage is filed, upon receiving such certificate, duly proved by the affidavit of a subscribing witness, shall, at each place where the number of the mortgage has been entered, with the name of any of the parties thereto, in the book kept by him under section 16 of this Act, or wherever otherwise in the said book the said mortgage has been entered, write the words "Discharged by Certificate Number (*stating the number of the certificate*)," and to the said entry the officer shall affix his name, and he shall also indorse the fact of the discharge upon the instrument discharged, and shall affix his name to the indorsement. 57 V., c. 37, s. 22.

Entries of renewal.

27. Where a mortgage has been renewed under section 18 of this Act, the indorsement or entries required by the preceding section to be made need only be made upon the statement and affidavit filed on the last renewal, and at the entries of the statement and affidavit in the said book. 57 V., c. 37, s. 23.

Entry signment of mortgages.

28. In case a registered chattel mortgage has been assigned the assignment shall, upon proof by the affidavit of a subscribing witness, be numbered and entered in the alphabetical chattel mortgage book, in the same manner as a chattel mortgage, and the proceedings authorized by the next preceding three sections of this Act, may and shall be had, upon a certificate of the assignee, proved in manner aforesaid. 57 V., c. 37, s. 24.

FEES.

29. For services under this Act the Clerks aforesaid shall Fees. be entitled to receive the following fees :

1. For filing each instrument and affidavit, and entering the same in a book as aforesaid, fifty cents.
2. For filing an assignment of any instrument, and making all proper indorsements in connection therewith, twenty-five cents.
3. For filing a certificate of discharge of any instrument, and making all proper entries and indorsements connected therewith, twenty-five cents.
4. For a general search, twenty-five cents.
5. For production and inspection of any instrument filed under this Act, ten cents
6. For copies of any document with certificate prepared, filed under this Act, ten cents for every hundred words.
7. For extracts, whether made by the person who made the search, or by the officer, ten cents for every hundred words. 57 V., c. 37, s. 29.

MISCELLANEOUS PROVISIONS.

30. Where, under any of the provisions of this Act, the time for registering or filing any mortgage, bill of sale, instrument, document, affidavit, or other paper expires on a Sunday or other day on which the office in which the registering or filing is to be made or done is closed, and by reason thereof the registering or filing cannot be made or done on that day, the registering or filing shall, so far as regards the time of doing or making the same, be held to be duly done or made if done or made on the day on which the office shall next be open. 57 V., c. 37, s. 30.

Registration where time limited expires on a day on which office is closed.

31. An authority for the purpose of taking or renewing a mortgage or conveyance under the provisions of this Act may be a general one to take and renew all or any mortgages or conveyances to the mortgagee or bargainee. 57 V., c. 37, s. 31.

General authority to take or renew mortgages.

32. All the instruments mentioned in this Act, whether for the sale or mortgage of goods and chattels, shall contain such sufficient and full description thereof that the same may be thereby readily and easily known and distinguished. 57 V., c. 37, s. 32.

Manner of describing property in mortgages, etc.

33. All affidavits and affirmations required by this Act may be taken and administered by any Judge, Notary Public, or a

Who to administer the affidavits.

Commissioner or other person in or out of the Province authorized to take affidavits in and for the High Court, or by a Justice of the Peace; and the sum of twenty cents shall be payable for every oath thus administered. 57 V., c. 37, s. 33.

Act not to apply to mortgages of vessels registered.

34. This Act shall not apply to mortgages of vessels registered under the provisions of any Act in that behalf. 57 V., c. 37, s. 34.

Mortgages where new county is constituted.

35. All chattel mortgages relating to property within any township, city, town, or incorporated village forming part of a new county, at the date the proclamation forming the new county takes effect, shall, until their renewal becomes necessary to maintain their force against creditors, subsequent purchasers or mortgagees in good faith, continue to be as valid and effectual in all respects as they would have been if the new county had not been formed, but in the event of a renewal of any such chattel mortgage after the date the proclamation takes effect, the renewal shall be filed in the proper office in that behalf in the new county as if the mortgage had originally been filed therein, together with a certified copy under the hand of the Clerk and seal of the County Court, and no chattel mortgage in force at the said date shall lose its priority by reason of its not being filed in the new county prior to its renewal. 57 V., c. 37, s. 35.

Inspection of books in County Court office.

36. Every person shall have access to and be entitled to inspect the several books of the County Courts, containing records or entries of the chattel mortgages and bills of sale filed; and no person desiring such access or inspection shall be required, as a condition to his right thereto, to furnish the names of the parties in respect of whom such access or inspection is sought; and all Clerks of the County Courts of the Province shall respectively, upon demand or request, produce for inspection any chattel mortgage, or bill of sale, filed in their respective offices, or of which records or entries are, by law, required to be kept in such several books of the County Courts. 57 V., c. 37, s. 36.

Mortgage, etc., of goods not in possession of mortgagor.

37. The provisions of this Act shall extend to mortgages and sales of goods and chattels, notwithstanding that such goods and chattels may not be the property of, or may not be in the possession, custody or control of the mortgagor or bargainor or any one on his behalf at the time of the making of such mortgage or sale, and notwithstanding that such goods or chattels may be intended to be delivered at some future time, or that the same may not at the time of the making of said mortgage or sale be actually procured or provided, or fit or ready for delivery, and notwithstanding that some act may be required for the making or completing of such goods and chattels, or rendering the same fit for delivery. 57 V., c. 37, s. 37.

38. In the application of this Act the word "creditors" where it occurs, shall extend to creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, and to any assignee in insolvency of the mortgagor, and to an assignee for the general benefit of creditors, within the meaning of *The Act respecting Assignments and Preferences by Insolvent Persons*, as well as to creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of the sheriff or other officer. 57 V., c. 37, s. 38; 60 V., c. 3, s. 3.

"Creditors," meaning of.

Rev. Stat. c. 147.

39. The "actual and continued change of possession" mentioned in this Act shall be taken to be such change of possession as is open, and reasonably sufficient to afford public notice thereof. 57 V., c. 37, s. 39.

"Actual and continued change of possession," meaning of.

40. A mortgage or sale declared by this Act to be void or which, under the provisions of section 18 has ceased to be valid, as against creditors and subsequent purchasers or mortgagees, shall not by the subsequent taking of possession of the things mortgaged or sold by or on behalf of the mortgagee or bargainee be thereby made valid as against persons who become creditors or purchasers, or mortgagees before such taking of possession. 57 V., c. 37, s. 40; 60 V., c. 3, s. 3.

Subsequent possession not to validate sale otherwise void.

AGREEMENTS WHERE POSSESSION PASSES WITHOUT OWNERSHIP.

41.—(1) In case of an agreement for the sale or transfer of merchandise of any kind to a trader or other person for the purpose of resale by him in the course of business, the possession to pass to such trader or other person, but not the absolute ownership until certain payments are made or other considerations satisfied, any such provision as to ownership shall as against creditors, mortgagees or purchasers be void, and the sale or transfer shall be deemed to have been absolute, unless

Agreement on sale that property is not to pass until payment void unless filed, etc.

(a) The agreement is in writing, signed by the parties to the agreement or their agents, and

(b) Unless such writing or a duplicate or copy verified by oath is filed in the office of the County Court Clerk of the county or union of counties or in the proper office in a district in which the goods are situate at the time of making the agreement, and also in the office of the County Court Clerk of the county or union of counties, or in the proper office in a district in which such trader or other person resides at the time of making the agreement, such filing to be within five days of the delivery of possession of any of the goods under the agreement. 57 V., c. 37, s. 41 (1); 58 V., c. 24, s. 2.

Where to be filed in counties.

Where to be
filed in
territorial
districts.

(2) In the territorial districts of Muskoka, Nipissing, Algoma, Thunder Bay and Rainy River the agreement shall be filed in the office of the Clerk of the Peace in the district, and in the districts of Parry Sound and Manitoulin in the office of the registrar of deeds for the district; Provided that if a Clerk of the Peace shall be appointed for the district of Parry Sound or the district of Manitoulin, then any agreement requiring there-after to be filed in such district shall be filed in the office of such Clerk of the Peace.

Agreement
not to affect
ordinary
purchases.

(3) Such an agreement, though signed and filed, shall not affect purchases from the trader or person aforesaid in the usual course of his business.

Sections 37-41
not to affect
sales of certain
marked goods.

(4) The provisions of this and the four next preceding sections of this Act shall not affect the case of manufactured goods and chattels which at the time possession is given have the name and address of the manufacturer, bailor or vendor of the same painted, printed, stamped or engraved thereon or otherwise plainly attached thereto, nor any goods or chattels where the receipt-note, hire receipt, order or other instrument is filed, and for which cases respectively provision is made by *The Act respecting Conditional Sales of Chattels*. 57 V., c. 37, s. 41 (2-4).

Rev. Stat.
c. 149.

STATISTICAL RETURNS.

Returns of
chattel mort-
gages, etc., to
be made by
clerks.

42.—(1) Every Clerk with whom instruments are required to be registered under the provisions of this Act, shall on or before the 15th day of January in each year, transmit to the Minister of Agriculture returns which shall set out:

- (a) The number of chattel mortgages and renewals, the number of discharges, and the number of assignments for the benefit of creditors on record and undischarged in the office of such Clerk on the 1st day of January in the year preceding that in which the return is made;
- (b) The number of chattel mortgages and renewals, the number of discharges, and the number of assignments for the benefit of creditors registered in such office during the year following the said 1st day of January, and
- (c) The number of chattel mortgages and renewals, the number of discharges, and the number of assignments for the benefit of creditors on record and undischarged in the said office on the 31st day of December in said year.

(2) The returns shall not include instruments which have lapsed by reason of non-renewal.

(3) The chattel mortgages and renewals and discharges, and assignments for the benefit of creditors in the said returns shall

be classified according to the several occupations or callings of the vendors or mortgagors or assignors as stated in the instruments, and shall show the aggregate sums purporting to be secured thereby respectively.

(4) The returns shall, where practicable, distinguish mortgages to secure future indorsations or future advances from mortgages to secure an existing debt or a present advance. 53 V., c. 12, s. 7.

SCHEDULE A.

(Section 25.)

FORM OF DISCHARGE OF MORTGAGE.

To the Clerk of the Court of the of

I, A. B., of do certify that has satisfied all money due on, or to grow due on a certain chattel mortgage made by to , which mortgage bears date the day of A.D. , and was registered (or in case the mortgage has been renewed was re-registered), in the office of the Clerk of the Court of the of , on the day of A.D. , as No. (here mention the day and date of registration of each assignment thereof, and the names of the parties, or mention that such mortgage has not been assigned, as the fact may be); and that I am the person entitled by law to receive the money, and that such mortgage is therefore discharged.

Witness my hand, this day of A. D.

Signature of witness, and state residence }
and occupation. } A. B.

57 V., c. 37, Sched. A.

SCHEDULE B.

(Section 19.)

Statement exhibiting the interest of C. D. in the property mentioned in a Chattel Mortgage dated the day of 18 , made between A. B., of of the one part, and C. D., of , of the other part, and filed in the office of the Clerk of the Court of the of , on the day of , 18 , and of the amount due for principal and interest thereon, and of all payments made on account thereof.

The said C. D. is still the mortgagee of the said property, and has not assigned the said mortgage (or the said E. F. is the assignee of the said Mortgage by virtue of an assignment thereof from the said C. D. to him, dated the day of , 18) (or as the case may be).

No payments have been made on account of the said Mortgage (or The following payments, and no other, have been made on account of the said Mortgage :

1886, January 1, Cash received \$100.00).

The amount still due for principal and interest on the said Mortgage is the sum of \$ computed as follows : (*here give the computation*).

C. D.

County of } I, of the
To wit, } of in the County
of the Mortgagee named in the Chattel Mortgage mentioned
in the foregoing (or annexed) statement (or assignee of the mortgagee named
in the Chattel Mortgage mentioned in the foregoing [or annexed] statement
(as the case may be), make oath and say :

1. That the foregoing (or annexed) statement is true.
2. That the Chattel Mortgage mentioned in the said statement has not been kept on foot for any fraudulent purpose.

Sworn before me at the
of in the
County of , this
day of 18 ,

57 V., c. 37, Sched. B.

CONDITIONAL SALES.

R. S. O. 1897, CAP. 149.

An Act respecting Conditional Sales of Chattels.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Conditional
sales of manu-
factured goods
when to be
valid.

1. Receipt notes, hire receipts and orders for chattels, given by bailees of chattels, where the condition of the bailment is such that the possession of the chattel passes without any ownership therein being acquired by the bailee until the payment of the purchase or consideration money or some stipulated part thereof, shall only be valid as against subsequent purchasers or mortgages without notice in good faith for valuable consideration in the case of manufactured goods or chattels, which at the time possession is given to the bailee, have the name and address of the manufacturer, bailor or vendor of the same painted, printed, stamped or engraved thereon or otherwise plainly attached thereto, and no such bailment shall be valid as against such subsequent purchaser

or mortgagee as aforesaid, unless it is evidenced in writing, signed by the bailee or his agent. 51 V., c. 19, s. 1.

2. The preceding section shall not apply to household furniture, other than pianos, organs, or other musical instruments; nor shall it apply to any chattels mentioned in any such receipt note, hire receipt, order or other instrument where the manufacturer, bailor or vendor within ten days from the execution of the receipt note, hire receipt, order or other instrument evidencing the bailment or conditional sale given to secure the purchase money, or a part thereof, shall file with the Clerk of the County Court of the county in which the bailee or conditional purchaser resided at the time of the bailment or conditional purchase, a copy of the said receipt note, hire receipt, order or other instrument evidencing the bailment or conditional sale. 51 V., c. 19, s. 6.

Section 1 not to apply to certain household furniture.

Section 1 not to apply when copy of receipt filed with Clerk of County Court.

3.—(1) When the bailee or conditional purchaser resides at the time of the bailment or conditional purchase in an unorganized district, all instruments may be filed with the Clerk of the Court with whom mortgages and sales of chattels are to be registered in such district, under the law at the time in force.

Filing of instruments in unorganized districts,

(2) This section shall apply to instruments filed with the said officer prior to the 7th day of April, 1890. 53 V., c. 36, ss. 1, 2.

4. The Clerk of the Court, on receipt of such copy, shall duly file the same and cause it to be properly entered in an index book to be kept for that purpose, and shall be entitled to charge ten cents for every such filing and five cents for every search in respect thereof. A clerical error which does not mislead, or an error in an immaterial or non-essential part of the said copy so filed, shall not invalidate the said filing or destroy the effect thereof. 51 V., c. 19, s. 7.

Clerk to file copy of receipt note.

5. The manufacturer, bailor or vendor shall leave a copy of the receipt note, hire receipt, order or other instrument by which a lien on the chattel is retained, or which provides for a conditional sale with the bailee or conditional vendee at the time of the execution of the instrument, or within twenty days thereafter. 51 V., c. 19, s. 8.

Copy of receipt note to be left with vendee.

6.—(1) Every manufacturer, bailor or vendor shall, in answer to an inquiry made by any proposed purchaser or other interested person, within five days furnish full information respecting the amount or balance due or unpaid on any such manufactured goods or chattels, and the terms of payment of such amount or balance, and in case of his refusal or neglect to furnish the information asked for, such manufacturer, bailor or vendor shall on conviction before a Stipendiary or Police Magistrate or two Justices of the Peace, be liable to a fine not exceeding \$50.

Statement of amount due to be given on request.

(2) Any person convicted under this Act shall have the right to appeal against such conviction to the Judge of the County Court without a jury. 51 V., c. 19, s. 2.

Address to be given by person requiring statement.

7. The person so inquiring shall, if such inquiry is by letter, give a name and post office address to which a reply may be sent, and it shall be sufficient if the information aforesaid be given by registered letter deposited in the post office within the said five days, addressed to the person inquiring at his proper post office address, or where a name and address is given as aforesaid, addressed to such person by the name and at the post office so given. 51 V., c. 19, s. 3.

Breach of condition.

8. In case any manufacturer, bailor or vendor of any chattels in respect of which there has been a conditional sale or promise of sale or his successor in interest takes possession thereof for breach of condition, he shall retain the same for twenty days, and the bailee or his successor in interest may redeem the same within such period on payment of the full amount then in arrear, together with interest and the actual costs and expenses of taking possession which have been incurred. 51 V., c. 19, s. 4.

Notice of sale.

9. Where the goods or chattels have been sold or bailed originally for a greater sum than \$30, and the same have been taken possession of, as in the preceding section mentioned, such goods or chattels shall not be sold without five days' notice of the intended sale being first given to the bailee or his successor in interest. The notice may be personally served or may, in the absence of such bailee or his successor in interest, be left at his residence or last known place of abode in Ontario, or may be sent by registered letter, deposited in the post office at least seven days before the time when the said five days will elapse, addressed to the bailee or his successor in interest, at his last known post office address in Canada. The said five days or seven days may be part of the twenty days in section 8 mentioned. 51 V., c. 19, s. 5.

Chattels affixed to realty to remain subject to lien.

10.—(1) Where any goods or chattels subject to the provisions of this Act are affixed to any realty without the consent in writing of the owner of the goods or chattels, such goods and chattels shall notwithstanding remain so subject, but the owner of such realty, or any purchaser, or any mortgagee, or other incumbrancer on such realty, shall have the right as against the manufacturer, bailor or vendor of such goods or chattels, or any person claiming through or under them, to retain the said goods and chattels upon payment of the amount due and owing thereon.

(2) The provisions of this section are to be deemed retroactive and shall apply to past as well as to future transactions. 60 V., c. 3, s. 3; c. 14, s. 80.

FACTORS AND AGENTS.

R. S. O. 1897, CAP. 150.

An Act respecting Contracts in relation to Goods entrusted to Agents.

INTERPRETATION, s. 1.

AGENT ENTRUSTED WITH GOODS TO BE DEEMED OWNER FOR CERTAIN PURPOSES, s. 2.

AGENT IN POSSESSION TO BE DEEMED ENTRUSTED, s. 3.

AGENT IN POSSESSION OF DOCUMENT OF TITLE DEEMED ENTRUSTED WITH THE GOODS REPRESENTED BY IT, ss. 3, 4.

CONTRACTS FOR PURCHASE, WHEN VALID, s. 5.

CONTRACTS FOR LIEN, ETC., WHEN VALID, s. 6.

PLEDGE OF DOCUMENT OF TITLE TO BE DEEMED PLEDGE OF GOODS REPRESENTED BY IT, s. 7.

ANTECEDENT DEBT DUE BY AGENT NOT TO AUTHORIZE LIEN, s. 8.

CONTRACTS WITH AGENTS MUST BE BONA FIDE, s. 9.

BONA FIDE TRANSACTIONS TO BIND OWNERS, s. 10.

BONA FIDE LOAN OR ADVANCE WHEN DEEMED MADE ON SECURITY OF GOODS, s. 11.

CONTRACT WITH SUB-AGENTS WHEN DEEMED MADE WITH AGENTS, s. 12.

PAYMENTS WHEN DEEMED ADVANCES, s. 13.

CIVIL LIABILITY OF AGENT, s. 14.

CONVICTION FOR THEFT, s. 15.

OWNER MAY REDEEM GOODS PLEDGED BY AGENT, s. 16.

REMEDY OF OWNER AGAINST ESTATE OF INSOLVENT AGENT, s. 17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :—

Interpretation.

1. "Goods" shall include all personal property of whatever nature or kind soever ;

2. "Shipped" shall mean the carriage of goods, whether by land or by water ;

3. "Document of title" shall include every bill of lading, warehouse-keeper's or wharfinger's receipt or order for delivery of goods, every bill of inspection of pot or pearl ashes, and every other document used in the ordinary course of business, as proof of the possession or control of goods, or authorizing or

"Document of title."

purporting to authorize either by endorsement or by delivery, the possessor of such document to transfer or receive goods thereby represented. R. S. O. 1887, c. 128, s. 1.

When and to what extent agent to be deemed owner.

2. Any agent entrusted with the possession of goods or of the documents of title thereto, shall be deemed the owner thereof for the following purposes, that is to say :

1. To make a sale or contract, as in section 5 mentioned ;

2. To entitle the consignee of goods consigned by such agent to a lien thereon for any money or negotiable security advanced or given by him to or for the use of such agent, or received by the agent for the use of the consignee, in like manner as if such agent were the true owner of the goods ;

3. To give validity to any contract or agreement by way of pledge, lien or security *bona fide* made with such agent, as well for an original loan, advance or payment made upon the security of the goods or documents, as for any further or continuing advance in respect thereof ; and

4. To make such contract binding upon the owner of the goods and on all other persons interested therein, notwithstanding the person claiming such pledge or lien had notice that he was contracting only with an agent. R. S. O. 1887, c. 128, s. 2.

Agent in possession to be deemed entrusted.

3. Every agent in possession of goods or documents of title as aforesaid shall, for the purposes of this Act, be taken to have been entrusted therewith by the owner, unless the contrary is shewn in evidence. R. S. O. 1887, c. 128, s. 3.

Agent possessed of document of title to be deemed entrusted with goods represented by it.

4. Any agent entrusted as aforesaid and possessed of any document of title, whether derived immediately from the owner of the goods or obtained by reason of the agent having been entrusted with the possession of the goods or of any document of title thereto, shall be deemed to be entrusted with the possession of the goods represented by such document of title. R. S. O. 1887, c. 128, s. 4.

What contracts for purchase to be valid.

5. Any person may contract for the purchase of goods with any agent entrusted with the possession thereof, or to whom the same may be consigned, and may receive and pay for the same to such agent ; and such contract and payment shall be binding upon the owner of the goods notwithstanding the purchaser has notice that he is contracting only with an agent. The consideration necessary for the validity of a purchase under this section may be either a payment in cash or the delivery or transfer of other goods, or in part cash and in part the delivery or transfer of other goods. R. S. O. 1887, c. 128, s. 5 ; 57 V., c. 39, s. 1.

6. In case any person has a valid lien and security on any goods or document of title or negotiable security in respect of a previous advance upon a contract with an agent, and in case he delivers up the same to such agent upon a contract for the pledge, lien or security of other goods or of another document or security by such agent delivered to him in exchange, to be held upon the same lien as the goods, document or security so delivered up—then such new contract, if *bona fide*, shall be deemed a valid contract made in consideration of a present advance of money within this Act, but the lien acquired under such new contract on the goods, document or security deposited in exchange shall not exceed the value of the goods, document or security so delivered up and exchanged. R. S. O. 1887, c. 128, s. 6.

What contracts for lien valid.

7. All contracts pledging or giving a lien upon any such document of title shall be deemed a pledge of and lien upon the goods to which it relates, and the agent shall be deemed the possessor of the goods or documents of title, whether the same are in his actual custody or are held by any other person for him or subject to his control. R. S. O. 1887, c. 128, s. 7.

Pledge of document of title to be deemed pledge of goods represented by it.

8. No antecedent debt owing from any agent entrusted as aforesaid, shall authorize any lien or pledge in respect of such debt, nor shall it authorize such agent to deviate from any express orders or authority received from his principal. R. S. O. 1887, c. 128, s. 8.

Antecedent debt not to authorize pledge.

9. Such contracts only shall be valid as are herein mentioned, and such loans, advances and exchanges only shall be valid as are made *bona fide* and without notice that the agent making the same has no authority so to do, or that he is acting *mala fide* against the owner of the goods. R. S. O. 1887, c. 128, s. 9.

Contracts must be *bona fide*.

10. All *bona fide* loans, advances and exchanges as aforesaid though made with notice of the agent not being the owner, but without notice of his acting without authority, shall bind the owner and all other persons interested in the goods, document or security, as the case may be. R. S. O. 1887, c. 128, s. 10.

Bona fide transactions with agents to bind owners.

11. Where any loan or advance is *bona fide* made to an agent entrusted with and in possession of goods or documents of title as aforesaid on the faith of any contract in writing to consign, deposit, transfer or deliver such goods or documents of title, and the same are actually received by the person making the loan or advance, either at the time of the contract or at a time subsequent thereto, without notice that the agent is not authorized to make the pledge or security, such loan or advance shall be deemed a loan or advance upon the security of the goods or documents of title within this Act. R. S. O. 1887, c. 128, s. 11.

Bona fide loans or advances when deemed authorized.

What contracts to be considered to be made with agent.

12. Every contract, whether made directly with the agent as aforesaid or with any clerk or other person on his behalf, shall be deemed a contract with such agent. R. S. O. 1887, c. 128, s. 12.

Payments, when deemed advances.

13. Every payment, whether made by money, bills of exchange or other negotiable security, shall be deemed an advance within this Act. R. S. O. 1887, c. 128, s. 13.

Other liability of agents not to be affected.

14. Nothing herein contained shall lessen, alter or affect the civil responsibility of any agent for the breach of any duty or contract or the non-fulfilment of his orders or authority, in respect of any such contract, agreement, lien or pledge as aforesaid. R. S. O. 1887, c. 128, s. 14.

Conviction for theft not admissible in evidence.

15. The conviction of any agent for theft, stealing or other similar crime shall not be received in evidence in any action against him. R. S. O. 1887, c. 128, s. 15.

Owners may redeem goods pledged.

16. Nothing herein contained shall prevent the owner from redeeming any goods or documents of title pledged as aforesaid, at any time before the same have been sold, upon repayment of the amount of the lien thereon or restoration of the securities in respect of which the lien exists, and upon payment or satisfaction to the agent of any sum of money for or in respect of which such agent is entitled to retain the goods or documents, by way of lien against such owner; or shall prevent the owner from recovering from the person with whom any goods or documents have been pledged, or who has any lien thereon, any balance or sum of money remaining in his hands as the produce of the sale of the goods, after deducting the amount of the pledge or lien under the contract. R. S. O. 1887, c. 128, s. 16.

Remedy of the owner against the estate of insolvent agent.

17. In case of the insolvency of any such agent, and in case the owner of the goods redeems the same, he shall, in respect of the sum paid by him on account of the agent for such redemption, be held to have paid the same for the use of such agent before his insolvency, or in case the goods have not been so redeemed, the owner shall be deemed a creditor of the agent for the value of the goods so pledged at the time of the pledge, and may in either case prove for or set-off the sum so paid, or the value of such goods, as the case may be. R. S. O. 1887, c. 128, s. 17.

LIMITED PARTNERSHIPS.

R. S. O. 1897, CAP. 151.

An Act respecting Limited Partnerships.

LIMITED PARTNERSHIPS MAY BE FORMED, s. 1.	CERTIFICATES OF RENEWAL, s. 10.
GENERAL AND SPECIAL PARTNERS, ss. 2-4.	ALTERATIONS, WHEN DEEMED A DISSOLUTION, s. 11.
CERTIFICATE OF SUCH PARTNERSHIP. Contents and form, ss. 5, 6.	PARTNERSHIP NAME, s. 12.
Where to be filed and fees, ss. 7, 8.	LIABILITIES OF GENERAL AND SPECIAL PARTNERS, ss. 13-18.
Partnership not deemed formed until filed, s. 9.	NO PREMATURE DISSOLUTION WITHOUT NOTICE, s. 19.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Limited partnerships for the transaction of any mercantile, mechanical, manufacturing or other business within the Province of Ontario, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned, but the provisions of this Act shall not be construed to authorize any such partnership for the purpose of banking, or the construction or working of railways, or making insurance. R. S. O. 1887, c. 129, s. 1; 55 V., c. 28, s. 1.

Limited partnerships may be formed.

2. Such partnerships may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners. R. S. O. 1887, c. 129, s. 2.

Of whom to consist.

3. General partners shall be jointly and severally responsible as general partners are by law, but special partners shall not be liable for the debts of the partnership beyond the amounts by them contributed to the capital. R. S. O. 1887, c. 129, s. 3.

Liability of general and special partners.

- General partners only to transact business, etc. **4.** The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same. R. S. O. 1887, c. 129, s. 4.
- Certificate to be signed. **5.** The persons desirous of forming such partnership shall make and severally sign a certificate which shall contain—
- Contents of. 1. The name or firm under which the partnership is to be conducted ;
2. The general nature of the business intended to be transacted ;
3. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual places of residence ;
4. The amount of capital stock which each special partner has contributed ;
5. The period at which the partnership is to commence and the period at which it is to terminate. R. S. O. 1887, c. 129, s. 5.
- Form of. **6.** The certificate shall be in the words or to the effect of the form given in the Schedule to this Act, and shall be signed by the several persons forming the partnership, before a Notary Public, who shall duly certify the same. R. S. O. 1887, c. 129, s. 6.
- Where to be filed. **7.** The certificate so signed and certified shall be filed in the office of the Clerk of the County Court of the county in which the principal place of business of the partnership is situate, and shall be recorded by him at full length in a book to be kept for that purpose and open to public inspection. R. S. O. 1887, c. 129, s. 7.
- Fees. **8.** For filing and recording each such certificate the Clerk shall be entitled to receive the sum of twenty-five cents, and shall also be entitled to receive from every person searching in the book where such certificate is so recorded the sum of ten cents for each such search. 56 V., c. 25, s. 1.
- Partnership not formed until certificate filed. **9.** No such partnership shall be deemed to have been formed until a certificate has been made, certified, filed and recorded as above directed ; and if any false statement is made in such certificate, all the persons interested in the partnership shall be liable for all the engagements thereof as general partners. R. S. O. 1887, c. 129, s. 8.
- Certificates of continuance. **10.** Every renewal or continuance of a partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner herein required for its original

formation; and every partnership otherwise renewed or continued, shall be deemed a general partnership. R. S. O. 1887, c. 129, s. 9.

11. Every alteration made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made, shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the next preceding section. R. S. O. 1887, c. 129, s. 10.

What alterations to be deemed a dissolution.

12. The business of the partnership shall be conducted under a name or firm in which the names of the general partners, or some or one of them, only shall be used; and if the name of a special partner is used in such firm with his privity, he shall be deemed a general partner. R. S. O. 1887, c. 129, s. 11.

Partnership name.

13. Actions in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partner. R. S. O. 1887, c. 129, s. 12.

Liability of general partners to actions.

14. No part of the sum which a special partner has contributed to the capital stock shall be withdrawn by him, or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if after the payment of such interest, any profits remain to be divided, he may also receive his portion of such profits. R. S. O. 1887, c. 129, s. 13.

Restrictions upon stock of special partners.

15. If it appears that by the payment of interest or profits to a special partner the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of the deficient capital, with interest. R. S. O. 1887, c. 129, s. 14.

When special partner liable to refund.

16. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney or otherwise; and if he interferes contrary to these provisions, he shall be deemed a general partner. R. S. O. 1887, c. 129, s. 15.

Privileges of special partners.

17. The general partners shall be liable to account to each other and to the special partners for their management of the

General partners liable to account.

concern in like manner as other partners. R. S. O. 1887, c. 129, s. 16.

Creditors preferred to special partners.

18. In case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership have been satisfied. R. S. O. 1887, c. 129, s. 17.

No premature dissolution without notices, etc.

19. No dissolution of such partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or in the certificate of its renewal, until a notice of such dissolution has been filed in the office in which the original certificate was recorded, and has been published once in each week, for three weeks, in a newspaper published in the county or district where the partnership has its principal place of business, and for the same time in the *Ontario Gazette*. R. S. O. 1887, c. 129, s. 18.

SCHEDULE.

(Section 6.)

CERTIFICATE OF PARTNERSHIP.

We, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of (*B. D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A. B.*) residing usually at _____ and (*C. D.*) residing usually at _____, as General Partners; and (*E. F.*) residing usually at _____, and (*G. H.*) residing usually at _____, as Special Partners. The said (*E. F.*) having contributed (\$4,000) and the said (*G. H.*) (\$8,000) to the Capital Stock of the said Partnership.

The said Partnership commenced on the _____ day of _____ 18____
and terminates on the _____ day of _____ 18____.

Dated this _____ day of _____ 18____.
(Signed) _____
A. B.
C. D.
E. F.
G. H.

Signed in the presence of me, }
L. M.,
Notary Public. }

R. S. O. 1887, c. 129, Sched.

REGISTRATION OF PARTNERSHIPS.

R. S. O. 1897, CAP. 152.

An Act respecting the Registration of Co-Partnerships
and Business firms.

DECLARATIONS OF PARTNERSHIP TO BE FILED, s. 1. Form, s. 2. When to be filed, s. 3. Declaration where alteration in partnership, s. 4. Allegations of declarations not controvertible by the signers, s. 5. Signers to be partners until a new declaration filed, s. 7. DECLARATION OF DISSOLUTION, s. 6. ACTIONS AGAINST PARTNERS NOT FIL- ING DECLARATIONS, s. 8.	DECLARATION BY PERSONS TRADING UNDER A BUSINESS NAME NOT HIS OWN, s. 9. Form, s. 10. PENALTY FOR NOT FILING DECLARA- TION, s. 11. REGISTRATION OF DECLARATIONS, s. 12. Form of index books, ss. 13, 14. Firm index book, s. 14. Individual index book, s. 15. Fees of registrars, s. 16. Furnishing books, s. 17. ACT NOT TO APPLY TO CHEESE MANU- FACTURING COMPANIES, s. 18.
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HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1.—(1) All persons associated in partnership for trading manufacturing or mining purposes, shall cause to be delivered to the registrar of the registry division in which they carry or intend to carry on business, a declaration in writing, signed by the several members of such co-partnership.

Persons in
partnership to
deliver a
declaration to
the Registrar.

(2) If, however, any of the said members are absent from the place where they carry or intend to carry on business, at the time of making the declaration, then the declaration shall be signed by the members present in their own names, and also for their absent co-members, under their special authority to that effect, and such special authority shall be at the same time filed with the registrar and annexed to the declaration. R. S. O. 1887, c. 130, s. 1.

When some of
the parties are
absent.

Requisites of declaration.

2. The declaration shall be in the form or to the effect of Schedule A to this Act, and shall contain the names, surnames, additions and residences of each and every partner as aforesaid, and the name, style or firm under which they carry on or intend to carry on such business and shall state also the time during which the partnership has existed or is to exist, and shall declare that the persons therein named are the only members of such co-partnership. R. S. O. 1887, c. 130, s. 2.

Time of filing declaration.

3. The declaration shall be filed within six months next after the formation of the partnership. R. S. O. 1887, c. 130, s. 3.

Declaration where change in partnership.

4. A similar declaration shall in like manner be filed when and so often as any change or alteration takes place in the membership of the partnership, or in the name, style or firm under which they intend to carry on business, or in the place of residence of any member of the firm; and every new declaration shall state the alteration in the partnership. R. S. O. 1887, c. 130, s. 4.

Allegations in the declaration not to be controvertible by parties signing.

5. The allegations made in the declarations aforesaid shall not be controvertible as against any party by any person who has signed the same, nor as against any party not being a member of the partnership by any person who has signed the same, or who was really a member of the partnership therein mentioned at the time the declarations were respectively made. R. S. O. 1887, c. 130, s. 5.

Declaration of dissolution of partnership.

6. Upon the dissolution of a partnership, any or all of the persons who composed the partnership may sign a declaration certifying the dissolution of the partnership; such declaration may be in the form of Schedule B to this Act. R. S. O. 1887, c. 130, s. 7.

Persons signing declaration to be deemed partners till new declaration is filed.

7. Until a new declaration is made and filed by him, or by his co-partners or any of them as aforesaid, no person who shall have signed the declaration filed shall be deemed to have ceased to be a partner; but nothing herein contained shall exempt from liability any person who, being a partner, fails to declare the same as already provided, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and if judgment is recovered against them, any other partner or partners may be sued jointly or severally in an action on the original cause of action upon which the judgment was rendered; nor shall anything in this Act be construed to affect the rights of any partners with regard to each other, except that no declaration as aforesaid shall be controverted by any person who has signed the same. R. S. O. 1887, c. 130, s. 6.

Liability of partners failing to declare the same.

Rights of partners between themselves.

8.—(1) If any persons are associated as partners for the purpose of trade, and no declaration is filed under this Act with regard to such partnership, then any action which might be brought against all the members of the partnership may also be brought against any one or more of them, as carrying on or as having carried on business jointly with others, without naming such others in the writ or declaration, under the name and style of their said co-partnership firm; and if judgment be recovered against him or them, any other partner or partners may be sued jointly or severally on the original cause of action on which such judgment is rendered.

How actions may be brought against partners in trade not filing declaration.

(2) If any such action be founded on any obligation or instrument in writing in which all or any of the partners bound by it are named, then all the partners named therein shall be made parties to such action; and a judgment rendered against any member of such existing co-partnership for a partnership debt or liability, may be executed by process of execution against all and every the partnership stock, property, and effects, in the same manner, and to the same extent as if such judgment had been rendered against such co-partnership. R. S. O. 1887, c. 130, s. 8.

When the action is founded on any obligation in writing.

9. Every person who is engaged in business for trading manufacturing or mining purposes, and who is not associated in partnership with any other person or persons, but who uses as his business style some name or designation other than his own name, or who in such style uses his own name with the addition of "*and Company*," or some other word or phrase indicating a plurality of members in the firm, shall cause to be delivered to the registrar of the registry division in which such person carries on or intends to carry on business, a declaration in writing, signed by such person. R. S. O. 1887, c. 130, s. 9.

A person whose business style indicates plurality to file a declaration.

10. Such declaration shall contain the name, surname, addition and residence of the person making the same, and the name, style or firm, under which he carries on or intends to carry on business, and shall also state that no other person is associated with him in partnership; and such declaration shall be filed within six months of the time when such style is first used. R. S. O. 1887, c. 130, s. 10.

Form of declaration.

11. Every member of a partnership or other person required to register a declaration under the provisions of this Act who fails to comply with the requirements of this Act shall forfeit the sum of \$100, to be recovered before any Court of competent jurisdiction, by any person suing as well in his own behalf as on behalf of Her Majesty; and half of such penalty shall belong to the Crown for the uses of the Province, and the other half to the party suing for the same, unless the action is brought, as it may be, on behalf of the Crown only, in which

Penalty for non-compliance.

Application of penalty.

case the whole of the penalty shall belong to Her Majesty for the uses aforesaid. R. S. O. 1887, c. 130, s. 11.

Registrar to record declaration.

Registrar's fees for filing.

12. It shall be the duty of the registrar to enter all declarations made under this Act in the order in which the same are received in a book to be by him kept for that purpose, which shall at all times during office hours be open to the inspection of the public gratuitously; and for registering each such declaration the registrar shall be entitled to receive from the person filing the same the sum of fifty cents if it does not contain more than two hundred words, and at the rate of ten cents per hundred words for all above the number of two hundred. R. S. O. 1887, c. 130, s. 12.

Registrar to keep two indexes.

13. It shall be the duty of each registrar to keep two alphabetical index books of all declarations delivered to him, in pursuance of the provisions of this Act. R. S. O. 1887, c. 130, s. 13.

Form of "Firm Index Book."

14. In one of such books, hereinafter called the "Firm Index Book," the registrar shall enter in alphabetical order the styles of the respective firms, in respect to which declarations have been delivered to him, and shall place opposite each such entry the names of the person or persons composing such firm and the date of the receipt by him of the declaration, in the manner shewn in the form of "Firm Index Book," given in Schedule C to this Act. R. S. O. 1887, c. 130, s. 14.

Form of "Individual Index Book."

15. In the second of such books, hereinafter called the "Individual Index Book," the registrar shall enter in alphabetical order the names of the respective members of each of such firms, and shall place opposite such entry the style of the firm of which such person is a member, and the date of the receipt of the declaration in the manner shewn in the form of "Individual Index Book," given in Schedule D to this Act. R. S. O. 1887, c. 130, s. 15.

Registrar's fees for certain services.

16. The registrar shall be entitled to charge for searches the following fees and no more:

For searching in Firm Index—each firm ten cents;
For searching in Individual Index—each name ten cents;
For each certificate, when required—twenty-five cents.

R. S. O. c. 1887, c. 130, s. 16.

Who to furnish registry books.

17. All the books required for the purposes of this Act shall be furnished by the treasurer of the municipality, whose duty it is to furnish registry books (or in case of his default, by the registrar), in the same manner as other registry books. R. S. O. 1887, c. 130, s. 17.

18. This Act shall not be construed to apply to associations of individuals for the manufacture of cheese and contributing produce from their dairies for that purpose. R. S. O. 1887, c. 130, s. 18. Cheese manu-
facturing Cos.
excepted.

SCHEDULE A.

(Section 2.)

DECLARATION OF CO-PARTNERSHIP.

Province of Ontario, }
County of }

We of in (occu-
pation) and of in
(occupation), hereby certify

1. That we have carried on and intend to carry on trade and business as at in partnership, under the name and firm of (or I (or we) the undersigned, of in, hereby certify that I (or we) have carried on and intend to carry on trade and business as at in partnership with C. D. of and E. F. of (as the case may be).

2. That the said partnership has subsisted since the day of 18 .

3. And that we (or I (or we) and the said C. D. and E. F.) are and have been since the said day the only members of the said partnership.

Witness our hands at this day of 18 .

R. S. O. 1887, c. 130, Sched. A.

SCHEDULE B.

(Section 6.)

DECLARATION OF DISSOLUTION OF PARTNERSHIP.

Province of Ontario, } I,
County of } formerly a member of the firm carrying on business as

at , in the County of , under the style of , do hereby certify that the said partnership was on the day of dissolved.

Witness my hand, at , the day of , 18 .

R. S. O. 1887, c. 130, Sched. B.

SCHEDULE ^{F.C.}_{C.}

(Section 14.)

FIRM INDEX BOOK.

STYLE OF FIRM.	NAMES OF PERSONS COMPOSING THE FIRM.	DATE OF FILING DECLARATION.
Abbott, Black & Co.	George Abbott, John Black, Edward Cook	10th February, 1871.
Bernard, Green & Jones.	John Bernard, Edward Green, John Jones	12th February, 1871.
Cook (Thos.) & Co.	Thomas Cook, James Wilson.	14th February, 1871.
Dadson, William	Wm. Dadson, Thomas Jones, Robert Watson, Wm. Wilberforce, James Johnson.	14th February, 1871.
Dick & Co.	Richard Dick.	15th May, 1872.
Dow (Wm.) & Sons	William Dow.	19th May, 1872.

R. S. O. 1887, c. 130, Sched. C.

SCHEDULE D.

(Section 15.)

INDIVIDUAL INDEX BOOK.

NAME OF INDIVIDUAL.	STYLE OF FIRM OF WHICH A MEMBER.	DATE OF FILING DECLARATION.
Abbott George	Abbott, Black & Co.	10th February, 1871.
Black, John	Abbott, Black & Co.	10th February, 1871.
Bernard, John	Bernard, Green & Jones.	12th February, 1871.
Cook, Edward	Abbott, Black & Co.	10th February, 1871.
Cook, Thomas	Thos. Cook & Co.	14th February, 1871.
Dadson, William	William Dadson	14th February, 1871.
Dick, Richard	Dick & Co.	15th May, 1872.
Dow, William	Wm. Dow & Sons.	19th May, 1872.

R. S. O. 1887, c. 130, Sched. D.

NOTE.—In the above Schedules, surnames having different initial letters are shown together. This is done merely for the purpose of illustrating by means of a number of names, the manner in which the entries should be made. In the index books, surnames having different initial letters should not appear in the first column of either book on the same page, but should be indexed alphabetically, the style of a firm being indexed in the firm index book according to the initial letter of the first surname mentioned. 60 V., c. 15, Sched. A (27).

MARRIED WOMEN'S PROPERTY.

R. S. O. 1897, CAP. 163.

An Act respecting the property of Married Women.

SHORT TITLE, s. 1	ANTE-NUPTIAL DEBTS AND LIABILITIES, s. 16.
INTERPRETATION, s. 2.	LIABILITY OF HUSBAND FOR WIFE'S DEBTS, ETC., ss. 17, 18.
RIGHT TO HOLD PROPERTY AND TO CONTRACT ss. 3-7.	QUESTIONS BETWEEN HUSBAND AND WIFE AS TO PROPERTY TO BE DECIDED IN A SUMMARY WAY, s. 19.
EXECUTION OF GENERAL POWER, s. 8.	MARRIED WOMAN AS AN EXECUTRIX OR TRUSTEE, s. 20.
POWER FOR COURT TO BIND INTEREST OF MARRIED WOMAN, s. 9.	SAVING AS TO SETTLEMENTS, s. 21.
DEPOSITS, STOCKS, ETC., STANDING IN NAME OF MARRIED WOMAN TO BE DEEMED HER PERSONAL PROPERTY, ss. 10, 11.	WHEN MARRIED WOMAN MAY OBTAIN ORDER OF PROTECTION FOR EARNINGS OF HER MINOR CHILDREN, s. 22.
INVESTMENTS IN JOINT NAMES OF MARRIED WOMEN AND OTHERS, ss. 12, 13.	LEGAL REPRESENTATIVE OF MARRIED WOMAN, s. 23.
FRAUDULENT INVESTMENTS WITH MONEY OF HUSBAND, s. 14.	RIGHTS PRIOR TO 47 V., c. 19, NOT AFFECTED, s. 24.
REMEDIES OF MARRIED WOMAN FOR PROTECTION OF SEPARATE PROPERTY, s. 15.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Married Women's Property Act.*" R. S. O. 1887, c. 132, s. 1. Short title.

2. In this Act the word "contract" shall include the acceptance of any trust, or of the office of executrix or administratrix, and the provisions of this Act as to liabilities of married women shall extend to all liabilities by reason of any breach of trust or devastavit committed by a married woman being a trustee or executrix or administratrix either before or after her marriage, and her husband shall not be subject to such liabilities unless he has acted or intermeddled in the trust Interpretation
"Contract."
Liabilities.

"Property." or administration, and the word "property" shall include a thing in action. R. S. O. 1887, c. 132, s. 2.

Married woman to be capable of holding property as a *feme sole*.

3.—(1) A married woman shall be capable of acquiring, holding, and disposing by will or otherwise, of any real or personal property as her separate property, in the same manner as if she were a *feme sole*, without the intervention of any trustee.

Power to contract.

(2) A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, in all respects as if she were a *feme sole*, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding brought by or taken against her; and any damages or costs recovered by her in any such action or proceeding shall be her separate property; and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property, and not otherwise. R. S. O. 1887, c. 132, s. 3 (1, 2).

Contracts prior to 13th April, 1897.

(3) Every contract entered into by a married woman prior to the 13th day of April, 1897, shall be deemed to be a contract entered into by her with respect to and to bind her separate property, unless the contrary is shewn.

(4) Every contract entered into by a married woman prior to the said 13th day of April, 1897, with respect to and to bind her separate property, shall bind, not only the separate property which she was possessed of or entitled to at the date of the contract, but also all separate property which she has since acquired or may hereafter acquire. R. S. O. 1887, c. 132, s. 3 (3, 4); 60 V., c. 22, s. 3.

Contracts of married women from 13th April, 1897, to bind all their separate estate.

4.—(1) Every contract entered into by a married woman on or after the 13th day of April, 1897, otherwise than as an agent:

(a) Shall be deemed to be a contract entered into by her with respect to and to bind her separate property whether she is or is not in fact possessed of or entitled to any separate property at the time when she enters into such contract, and it shall not be necessary in any proceeding to prove that she had any separate property at the time when such contract was entered into, or subsequently:

(b) Shall bind all separate property which she may at the time or thereafter possess or be entitled to; and

(c) Shall also be enforceable by process of law against all property which she may thereafter while discovert possess or be entitled to.

(2) Nothing in this section contained shall render available to satisfy any liability or obligation arising out of such contract any separate property which she is restrained from anticipating. 60 V., c. 22, s. 1.

Except where restraint on anticipation exists, 56-57 V. (Imp.) c. 63, s. 1.

5.—(1) Every woman married on or before the 4th day of May, 1859, without any marriage contract or settlement, shall and may, from and after the said day, notwithstanding her coverture, have, hold and enjoy all her real estate not on or before the said 4th day of May taken possession of by her husband, by himself or his tenants, and all her personal property not on or before said day reduced into the possession of her husband, whether belonging to her before marriage or in any way acquired by her after marriage, free from his debts and obligations contracted after the said 4th day of May, and from his control or disposition without her consent, in as full and ample a manner as if she were sole and unmarried.

A woman married on or before 4th May, 1859, may hold property not then reduced to possession of her husband.

(2) Every woman married between the 5th day of May, 1859, and the 2nd day of March, 1872 (both inclusive), without any marriage contract or settlement, shall and may, notwithstanding her coverture, have, hold and enjoy all her real property, whether belonging to her before marriage or acquired by her by inheritance, devise or gift, or as heir-at-law to an intestate, or in any other way after marriage, free from the debts and obligations of her husband, and free from his control or disposition, without her consent, in as full and ample a manner as if she continued sole and unmarried; but this section shall not extend to any property received by a married woman from her husband during coverture.

A woman married between 4th May, 1859, and 2nd March, 1872, may hold her real property free from the debts or control of her husband.

Proviso.

(3) The real estate of any woman married after the 2nd day of March, 1872, whether owned by her at the time of her marriage, or acquired in any manner during her coverture, and the rents, issues and profits thereof respectively, shall, without prejudice and subject to the trusts of any settlement affecting the same, be held and enjoyed by her for her separate use, free from any estate therein of her husband during her lifetime, and from his debts and obligations, and from any claim or estate by him, as tenant by the curtesy; and her receipts alone shall be a discharge for any rents, issues and profits of the same; but nothing herein contained shall prejudice the right of the husband as tenant by the curtesy in any real estate of the wife which she has not disposed of *inter vivos*, or by will.

A woman married after 2nd March, 1872, may hold her real property free from any estate or claim of her husband during her life.

(4) Every woman married since the 4th day of May, 1859, without any marriage contract or settlement, shall and may, notwithstanding her coverture, have, hold and enjoy all her personal property, whether belonging to her before marriage or acquired by her by inheritance, bequest or gift, or as next of kin to an intestate, or in any other way after marriage, free from the debts and obligations of her husband, and free from

A woman married since 4th May, 1859, may hold her personal property free from the debts or control of her husband.

his control or disposition, without her consent, in as full and ample a manner as if she continued sole and unmarried; but this sub-section shall not extend to any property received by a married woman from her husband during coverture. R. S. O. 1887, c. 132, s. 4.

Earnings
of married
women.

6.—(1) Every married woman, whether married before or after the passing of this Act, shall be entitled to have and hold as her separate property, and to dispose of as her separate property, the wages, earnings, money and property, gained or acquired by her in any employment, trade or occupation in which she is engaged or which she carries on, and in which her husband has no proprietary interest, or gained or acquired by the exercise of any literary, artistic or scientific skill.

Property of a
woman married
on or after
1st July,
1884, to be held
as separate
property.

(2) Every woman married on or after the first day of July, 1884, shall also be entitled to have and hold and to dispose of as her separate property all other real and personal property belonging to her at the time of marriage, or acquired by or devolving upon her after marriage. R. S. O. 1887, c. 132, s. 5.

Property ac-
quired after
1st July,
1884, by a
woman mar-
ried before
that date to be
held by her as
separate prop-
erty.

7. Every woman married before the first day of July, 1884, shall be entitled to have and to hold and to dispose of in manner aforesaid as her separate property, all real and personal property, her title to which, whether vested or contingent, and whether in possession, reversion, or remainder, shall accrue on or after the said first day of July, including any wages, earnings, money and property so gained or acquired by her as aforesaid. R. S. O. 1887, c. 132, s. 7.

Execution of
general power.

8. The execution of a general power by will by a married woman shall have the effect of making the property appointed liable for her debts and other liabilities in the same manner as her separate estate is made liable under this Act. R. S. O. 1887, c. 132, s. 6.

Power of
court to bind
interest of
married
women.

Imp. Act 44-45
V. c. 41, s. 39.

9. Notwithstanding that a married woman is restrained from anticipation, the Court may, if it thinks fit, where it appears to the Court to be for her benefit, by judgment or order, with her consent, bind her interest in any property. R. S. O. 1887, c. 132, s. 8.

As to stock,
etc., to which
a married
woman is en-
titled.

10. All deposits, all sums forming part of public stocks or funds, which on the first day of July, 1884, were standing in the sole name of a married woman, and all shares, stock, debentures, debenture stock, or other interests of or in any corporation, company, or public body, municipal, commercial, or otherwise, or of, or in any industrial, provident, friendly, benefit, building or loan society, which, on the first day of July, 1884, were standing in her name, shall be deemed, unless and until the contrary be shewn, to be the separate property of such

married woman; and the fact that any such deposit, sum forming part of public stocks, funds, or of any share, stock, debenture, debenture stock, or other interest as aforesaid, is standing in the sole name of a married woman, shall be sufficient *prima facie* evidence that she is beneficially entitled thereto for her separate use, so as to authorize and empower her to receive or transfer the same, and to receive the dividends, interests and profits thereof, without the concurrence of her husband, and to indemnify all public officers, and all directors, managers and trustees of every such corporation, company, public body or society as aforesaid, in respect thereof. R. S. O. 1887, c. 132, s. 9.

11. All such particulars mentioned in the preceding section which after the first day of July, 1884, were placed, or transferred in or into, or made, to stand, in the sole name of any married woman shall be deemed, unless and until the contrary be shewn, to be her separate property, in respect of which, so far as any liability may be incident thereto, her separate estate shall alone be liable, whether the same shall be so expressed in the document whereby her title to the same is created or certified, or in the books or register wherein her title is entered or recorded or not; Provided always, that nothing in this Act shall require or authorize any corporation or joint stock company to admit any married woman to be a holder of any shares or stock therein to which any liability may be incident contrary to the provisions of any statute, charter, by-law, articles of association, or deed of settlement regulating such corporation or company. R. S. O. 1887, c. 132, s. 10.

As to stock, etc., transferred, etc., to a married woman.

Proviso.

12. All the provisions hereinbefore contained as to such particulars mentioned in section 10, which on the first day of July, 1884, were standing in the sole name of a married woman, or which after that time shall be placed or transferred to or into or made to stand in the sole name of a married woman, shall respectively extend and apply, so far as relates to the estate, right, title, or interest of the married woman, to any of the particulars aforesaid which, on the 25th day of March, 1884, were standing in, or which shall be placed, or transferred to or into, or made to stand in, the name of any married woman jointly with any person or persons other than her husband. R. S. O. 1887, c. 132, s. 11.

Investments in joint names of married women and others.

13. It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any such particulars named in section 10, which shall be standing in the sole name of any married woman, or in the joint names of such married woman and any other person or persons not being her husband. R. S. O. 1887, c. 132, s. 12.

As to stock, etc., standing in the joint names of a married woman and others.

Fraudulent investments with money of husband.

14. If any investment in any of the particulars set forth in section 10 shall have been made by a married woman by means of moneys of her husband, without his consent, the Court may, upon an application under section 19 of this Act, order such investment, and the dividends thereof, or any part thereof, to be respectively transferred and paid to the husband; and nothing in this Act contained shall give validity as against creditors of the husband, to any gift, by a husband to his wife, of any property, in fraud of his creditors, or to any deposit or other investment of moneys of the husband made by or in the name of his wife in fraud of his creditors; but any property or moneys so deposited or invested may be followed as if this Act had not been passed. R. S. O. 1887, c. 132, s. 13.

Remedies of married woman for protection and security of separate property.

Torts as between husband and wife.

15. Every woman, whether married before or after this Act, shall have in her own name against all persons whomsoever, including her husband, the same remedies for the protection and security of her own separate property, as if such property belonged to her as a *feme sole*, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort. In any proceeding under this section it shall be sufficient to allege such property to be her property; and in any proceeding under this section a husband and wife shall be competent to give evidence against each other. R. S. O. 1887, c. 132, s. 14.

Wife's ante-nuptial debts and liabilities.

16. A woman after her marriage shall continue to be liable in respect and to the extent of her separate property for all debts contracted, and all contracts entered into or wrongs committed by her before her marriage; and she may be sued for any such debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable out of her separate property; and, as between her and her husband, unless there be any contract between them to the contrary, her separate property shall be deemed to be primarily liable for all such debts, contracts or wrongs, and for all damages or costs recovered in respect thereof: Provided always, that nothing in this Act shall operate to increase or diminish the liability of any woman married before the commencement of this Act for any such debt, contract or wrong, as aforesaid. R. S. O. 1887, c. 132, s. 15.

Proviso.

Husband to be liable for his wife's debts and other liabilities to a certain extent.

17. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage, and for wrongs committed by her after marriage, to the extent of all property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife, after deducting therefrom any payments made by him, and any sums for which judgment

may have been *bona fide* recovered against him in any legal proceeding, in respect of any such debts, contracts or wrongs, for or in respect of which his wife is liable; but he shall not be liable for the same any further or otherwise; and any Court in which a husband shall be sued for any such debt or liability shall have power to direct any inquiry or proceedings which it may think proper for the purpose of ascertaining the nature, amount or value of such property: Provided always, that nothing in this Act contained shall operate to increase or diminish the liability of any husband married before the first day of July, 1884, for or in respect of any such debt or other liability of his wife as aforesaid. R. S. O. 1887, c. 132, s. 16.

Proviso.

18. A husband and wife may be jointly sued in respect of any such debt or other liability (whether for contract or for any wrong) contracted or incurred by the wife as aforesaid if the plaintiff in the action shall seek to establish his claim either wholly or in part, against both of them; and if in any such action, or in any action brought in respect of any such debt or liability against the husband alone, it is not found that the husband is liable in respect of any property of the wife so acquired by him or to which he shall have become so entitled as aforesaid, he shall have judgment for his costs of defence, whatever may be the result of the action against the wife if jointly sued with him; and in any such action against husband and wife jointly, if it appears that the husband is liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband personally and against the wife as to her separate property; and as to the residue, if any, of such debt and damages, the judgment shall be a separate judgment against the wife as to her separate property only. R. S. O. 1887, c. 132, s. 17.

Suits for wife's liabilities.

19.—(1) In any question between husband and wife as to the title to or possession of property, either party, or any corporation, company, public body or society in whose books any stocks, funds or shares of either party are standing, may apply by summons or otherwise, in a summary way, to a Judge of the High Court, or (at the option of the applicant, irrespectively of the value of the property in dispute) to the Judge of the County Court of the county in which either party resides, and the Judge may make such order with respect to the property in dispute, and as to the costs of and consequent on the application, as he thinks fit; or may direct such application to stand over from time to time, and any inquiry touching the matters in question to be made in such manner as he shall think fit.

Questions between husband and wife as to property may be decided in a summary way.

(2) Any order of a Judge of the High Court, made under the provisions of this section, shall be subject to appeal in the same way as an order made by the same Judge in an action in the said Court.

(3) Any order of a County Court, under the provisions of this section, shall be subject to appeal in the same way as any other order made by the same Court.

(4) All proceedings in a County Court, under this section, in which, by reason of the character or value of the property in dispute, such Court would not have had jurisdiction if this Act had not passed, may, at the option of the defendant or respondent to such proceedings, be removed as of right into the High Court, by *certiorari*, or otherwise, as may be prescribed by the Rules of Court; but any order made or act done in the course of the proceedings, prior to the removal, shall be valid, unless order is made to the contrary by the High Court.

(5) The Judge of the High Court, or County Court, if either party so request, may hear any such application in his private room.

(6) Any such corporation, company, public body, or society, as aforesaid, shall, in the matter of any such application, for the purposes of costs or otherwise, be treated as a stakeholder only. R. S. O. 1887, c. 132, s. 18.

Married woman as an executrix or trustee.

20. A married woman, who is an executrix or administratrix, alone or jointly with any other person or persons, of the estate of any deceased person, or a trustee alone or jointly as aforesaid, of property subject to any trust, may sue or be sued, and may transfer or join in transferring, in that character, any such particulars as are mentioned in section 10, without her husband as if she were a *feme sole*. R. S. O. 1887, c. 132, s. 19.

Saving of existing settlements, and the power to make future settlements.

21. Nothing in this Act contained shall interfere with or affect any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman, or shall interfere with or render inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will, or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself shall have any validity against debts contracted by her before marriage, and no settlement or agreement for a settlement shall have any greater force or validity against creditors of such woman than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors. R. S. O. 1887, c. 132, s. 20.

In what cases a married woman may

22.—(1) Any married woman having a decree for alimony against her husband, or any married woman who lives apart

from her husband, having been obliged to leave him from cruelty, or other cause which by law justifies her leaving him and renders him liable for her support, or any married woman whose husband is a lunatic either with or without lucid intervals, or any married woman whose husband is undergoing sentence of imprisonment in the Provincial Penitentiary or in any gaol for a criminal offence, or any married woman whose husband from habitual drunkenness, profligacy, or other cause, neglects or refuses to provide for her support and that of his family, or any married woman whose husband has never been in this Province, or any married woman who is deserted or abandoned by her husband, may obtain an order of protection, entitling her, notwithstanding her coverture, to have and to enjoy all the earnings of her minor children, and any acquisitions therefrom, free from the debts and obligations of her husband and from his control or disposition, and without his consent, in as full and ample a manner as if she continued sole and unmarried.

obtain an order of protection for the earnings of her minor children.

Purport and effect of such order.

(2) The married woman may at any time apply, or the husband or any of the husband's creditors may at any time, on notice to the married woman, apply for the discharge of the order of protection; and if an order for such discharge is made, the same may be registered or filed like the original order.

How and by whom an order discharging protection may be obtained.

(3) Either order may issue in duplicate, and where the married woman resides in a city or town in which there is a Police Magistrate, the order for protection or any order discharging the same shall be made by the Police Magistrate, and shall be registered in the registry office of the registry division in which the city or town is situate.

Either order may be in duplicate. By whom to be made in cities and towns. Registration.

(4) Where the married woman does not reside in a city or town in which there is a Police Magistrate, the order shall be made by the Judge or one of the Judges, or the acting or Deputy Judge of the Division Courts or a Division Court of the county in which the married woman resides; and instead of being registered, shall be filed for public inspection with the Clerk of the Division Court of the division within which the married woman resides.

By whom order made elsewhere than in city or town.

(5) The hearing of an application for an order of protection, or for an order discharging the same may be public or private at the discretion of the Judge or Police Magistrate.

Hearing may be public or private.

(6) The order for protection shall have no effect until it is registered or filed, and the registrar or clerk shall immediately on receiving the order endorse thereon the day of registering or filing the same; and a certificate of the registering or filing and date, signed by the registrar or clerk for the time being, shall be *prima facie* evidence of such registering or filing and date; and a copy of the order which is registered or filed certified under the hand of the registrar or clerk to be a true copy thereof, shall be sufficient *prima facie* evidence of the order

Order not to have effect until registered or filed.

Evidence of order, etc.

without proof of the signature of the registrar or clerk, and without further proof of the order itself, or of the making or validity thereof.

From what time the order discharging protection shall take effect.

(7) The order for discharging an order of protection shall not in any case be retroactive, but shall take effect from the time it is made, and the order for protection shall protect the earnings of the minor children of the married woman until an order is made discharging such order of protection, and the married woman shall continue to hold and enjoy to her separate use whatever, during the interval between the registering or filing of the order of protection and the making of the order discharging the same, she may have acquired by the earnings of her minor children. R. S. O. 1887, c. 132, s. 21.

Legal representative of married woman.

23. For the purposes of this Act the legal personal representative of any married woman shall, in respect of her separate estate, have the same rights and liabilities and be subject to the same jurisdiction as she would have or be if she were living. R. S. O. 1887, c. 132, s. 22.

Married women's rights prior to 1st July, 1884, not affected.

47 V., c. 19.

24. This Act shall not be construed to deprive a woman married prior to the commencement of *The Married Women's Property Act, 1884*, of any right or privilege which she had at the time of the commencement of that Act, or would afterwards have had if that Act had not been passed. R. S. O. 1887, c. 132, s. 24.

COMPANIES.

R. S. O. 1897, CAP. 191; 61 VICT., CAP. 19.

An Act respecting the Incorporation and Regulation of Joint Stock Companies.

SHORT TITLE, s. 1.	INSPECTION, s. 80.
INTERPRETATION, s. 2.	CONTRACTS, DIVIDENDS, ETC., ss. 81-86.
APPLICATION OF ACT, ss. 3-8.	AUDITORS, ss. 87-94.
INCORPORATION BY LETTERS PATENT, ss. 9-15.	FEES, ss. 95, 96.
FIRST MEETING, s. 16.	FALSE STATEMENTS IN RETURNS, s. 97.
CAPITAL SHARES, ss. 17-22.	FORFEITURE, SURRENDER OR REVOCATION OF CHARTER, ss. 98-101.
USE OF WORD "LIMITED," s. 23.	EXTENSION OF POWERS OF COMPANIES, s. 102.
CHANGE OF NAME, s. 24.	AMALGAMATION OF COMPANIES, s. 103.
INCIDENTAL POWERS, s. 25.	RE-INCORPORATION OF INCORPORATED COMPANIES, ss. 104, 105.
STOCK, CALLS, ETC., ss. 26-39.	LETTERS PATENT TO COMPANIES IN- CORPORATED BY SPECIAL ACT, s. 106.
DIRECTORS AND THEIR POWERS, ss. 40-49.	EXTRA-PROVINCIAL COMPANIES, s. 107.
ANNUAL AND OTHER MEETINGS, ss. 50-64.	
NOTICES, ACTIONS, ETC., ss. 65-70.	
BOOKS, ss. 71-77.	
ANNUAL STATEMENT AND SUMMARY, ss. 78, 79.	

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. This Act may be cited as "*The Ontario Companies Act.*" Short title.

2. Where the words following occur in this Act, or in any letters patent and supplementary letters patent issued under this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

Interpreta-
tion.

(a) "Judge" shall mean one of the Judges of the High Court "Judge."
of Justice.

"Letters patent."

(b) "Letters patent" shall mean the letters patent, under the Great Seal of Ontario, incorporating or re-incorporating a company, as the case may be; for any purpose within the scope of this Act.

"Proxy."

(c) "Proxy" shall mean any person representing an absent shareholder and duly authorized, in writing, to act for him at a meeting of the company.

"Real estate,"
"Land;"

(d) "Real estate" or "land" shall include all messuages, lands, tenements, leaseholds and hereditaments of any tenure and all immovable real property of every kind;

"Shareholder;"

(e) "Shareholder" shall mean every subscriber to, or holder of stock in the company, and shall extend to and include the personal representatives of the shareholder.

"Supplementary letters patent;"

(f) "Supplementary letters patent" shall mean any letters patent, under the Great Seal of Ontario, granted to a company subsequent to the letters patent incorporating or re-incorporating the company;

"The Gazette."

(g) "*The Gazette*" shall mean *The Ontario Gazette*. 60 V., c. 28, s. 2.

APPLICATION OF ACT.

Incorporation of companies by letters patent.

3. No company shall hereafter be incorporated under *The Ontario Joint Stock Companies' Letters Patent Act*, and the amendments thereto, being chapter 157 of the Revised Statutes of Ontario, 1887, and chapter 190 of these Revised Statutes. 60 V., c. 28, s. 3, *part*.

Act to apply to companies hereafter incorporated by letters patent.

4. The incorporation of every company hereafter by letters patent shall be governed by this Act, and all the provisions of this Act shall apply to every such company, subject to the provisions of any general Act applying to the company. 60 V., c. 28, s. 3, *part*.

Sections which apply to companies incorporated by letters patent before 13th April, 1897.

5. The provisions of sections 17 to 105, inclusive, shall apply to every company incorporated before the 13th day of April, 1897, by letters patent issued under the authority of an Act of the Legislature of Ontario, subject to the provisions of any special Act or general Act applying to the company, other than said chapter 157 of the Revised Statutes of Ontario, 1887, and the amendments thereto. 60 V., c. 28, s. 4.

Sections which apply to companies incorporated on or before 13th April, 1897, by special Act.

6. The provisions of sections 17 to 97, inclusive, and sections 103 to 106, inclusive, shall apply to every company incorporated on or before the 13th day of April, 1897, by special Act of the Legislature of Ontario for purposes or objects within the scope of this Act, except such provisions as are inconsistent with the provisions of the special Act or amending Acts, or other special Acts relating to the company. 60 V., c. 28, s. 5.

7. The provisions of sections 17 to 97, inclusive, and sections 103 to 106, inclusive, shall, subject to any variations and exceptions by the special Act, apply to every company incorporated after the 13th day of April, 1897, by special Act of the Legislature of Ontario for purposes or objects within the scope of this Act, and the said provisions, subject as aforesaid, shall form part of the special Act and shall be construed together therewith as one Act. 60 V., c. 28, s. 6.

Sections which apply to companies incorporated after 13th April, 1897, by special Act.

8. The provisions of *The Ontario Joint Stock Companies General Clauses Act*, being chapter 156 of the Revised Statutes of Ontario, 1887, and chapter 189 of these Revised Statutes, shall not apply to any company incorporated after the 13th day of April, 1897, by special Act of the Legislature of Ontario for any of the purposes or objects within the scope of this Act. 60 V., c. 28, s. 7.

Rev. Stat., 1887, c. 156, not to apply to companies incorporated after 13th April, 1897, by special Act.

INCORPORATION BY LETTERS PATENT.

9. The Lieutenant-Governor in Council may, by letters patent, grant a charter to any number of persons, not less than five, who petition therefor, creating and constituting such persons and any others who have become subscribers to the memorandum of agreement, a body corporate and politic for any of the purposes or objects to which the legislative authority of the Legislature of Ontario extends, except the construction and working of railways, the business of insurance and the business of a loan corporation within the meaning of *The Loan Corporations Act*. 60 V., c. 28, s. 8.

Companies formed for certain purposes may be incorporated by letters patent.

Rev. Stat. s. 205.

10.—(1) The applicants for incorporation, who must be of the full age of twenty-one years, may petition the Lieutenant-Governor, through the Provincial Secretary, for the issue of letters patent. The petition of the applicants shall show :

Petition.

- (a) The proposed corporate name of the company with the word "Limited" as the last word thereof; and such name shall not on any public ground be objectionable and shall not be that of any known company, incorporated or unincorporated, or of any partnership, or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive: provided, however, that a subsisting company, or partnership, or individual, or the person carrying on such business may consent that such name, in whole or in part, be granted to the new company;
- (b) The objects, simply stated, for which the company is to be incorporated;

Name to be free from objection.

Object.

- Head-office and place of service. (c) The place within the Province of Ontario where the head-office of the company is to be situated, and where its principal books of account and its corporation records are to be kept and to which all communications and notices may be addressed;
- Capital. (d) The amount of the capital stock of the company;
- Shares. (e) The number of shares and the amount of each share;
- Names of applicants. (f) The name in full, the place of residence and the calling of each of the applicants;
- Directors. (g) The number and the names of the applicants, not less than three, who are to be the provisional directors of the company. *Reprinted as amended by 61 V., c. 19, s. 1.*
- Petition. (2) The petition may be similar to, but in its essential features shall comply with Schedule B to this Act, and shall be accompanied by a memorandum of agreement, executed in duplicate, which may be similar to, but which shall in its essential features comply with Schedule A to this Act.
- Memo. of agreement.
- Payments on shares. (3) In case any amount has been paid in on shares taken, by transfer of property to a trustee, the Provincial Secretary may require such evidence as shall be satisfactory to him of such transfer, and of the kind, nature and value of the property and the manner in which, and the person or persons or corporate body by whom the property transferred, or any other payment, is held in trust for the company with a view to its incorporation.
- Petitioners to be *bona fide* subscribers for shares. (4) Each petitioner shall be the *bona fide* holder in his own right of the share or shares for which he has subscribed in the memorandum of agreement.
- (5) The petition may ask for the embodying in the letters patent of any provision which, otherwise under this Act, might be embodied in any by-law of the company when incorporated. 60 V., c. 28, s. 9.
- Power to make general regulations as to notice, etc. **11.** The Lieutenant-Governor in Council may, from time to time, make regulations with respect to the following matters, namely:
- (a) The cases in which notice of application for letters patent or supplementary letters patent under this Act must be given;
- (b) The granting to one company power to carry on more than one kind of undertaking;
- (c) The forms of letters patent, supplementary letters patent, licenses, notices and other instruments and documents relating to applications and other proceedings under this Act;

(d) The form and manner of the giving of any notice required by this Act;

and such regulations shall be published in *The Gazette*. 60 V., c. 28, s. 10.

12. Before the letters patent are issued, the applicants shall establish to the satisfaction of the Provincial Secretary, or such other officer as may be charged by him to report thereon, the sufficiency of their memorandum of agreement and petition, and show that the proposed name is not open to objection under section 10 of this Act. 60 V., c. 28, s. 11. Preliminary conditions to be established.

13.—(1) The Provincial Secretary, the Assistant Provincial Secretary, or such other officer may for the purposes aforesaid, or for any other purpose under this Act, take any requisite evidence in writing under oath, or affirmation. Proof of matter under this Act.

(a) Proof of any matter which may be necessary to be made under this Act, may be made by statutory declaration, or by affidavit, or by deposition before the Provincial Secretary, or Assistant Provincial Secretary, or other officer as aforesaid, or before any Justice of the Peace, or Commissioner for taking Affidavits, or Notary Public, who, for this purpose, are hereby authorized and empowered to administer oaths or to take affirmations. 60 V., c. 28, s. 12.

14. The Lieutenant-Governor may give to the company a corporate name wholly or partially different from the name proposed by the applicants in their petition, and may in the letters patent vary the powers of the company from the powers stated in the petition. 60 V., c. 28, s. 13. Name and incidental powers of company may be varied.

15. Notice of the granting of the letters patent shall be given forthwith by the Provincial Secretary in *The Gazette*, and from the date of the letters patent the petitioners and the persons who signed the memorandum of agreement and their successors, respectively, shall be a corporation by the name mentioned in the letters patent, and shall be invested with all the powers, privileges and immunities which are incident to such corporation, or are expressed, or included in the letters patent and *The Interpretation Act*, and which are necessary to carry into effect the intention and objects of the letters patent and such of the provisions of this Act as are applicable to the company. 60 V., c. 28, s. 14. Notice of issuing letters patent.

Rev. Stat. c. 1.

FIRST MEETING.

16.—(1) The provisional directors of the company shall, by a registered letter addressed to each shareholder, call a general meeting of the company to be held within two months of the date of the letters patent, for the purpose of organizing the Meeting of company for organization.

company for the commencement of business. Such first general meeting shall be held at such convenient place as the directors may determine.

(2) If the said meeting is not called by the provisional directors within the time required by this section, any three or more shareholders in the company shall have power to call the meeting and to proceed to the organization of the company. 60 V., c. 28, s. 21.

CAPITAL, SHARES, ETC.

Increase of capital.

17.—(1) The company at any time after nine-tenths of the capital stock of the company has been subscribed and ten per centum thereon paid in, but not sooner, may, by by-law, provide for the increase of the capital stock of the company to any amount which it considers requisite for the due carrying out of the undertaking of the company.

(2) The by-law shall declare the number and value of the shares of the new stock, and may prescribe the manner in which the same are to be allotted; otherwise, the control of such allotment shall vest absolutely in the directors. 60 V., c. 28, s. 15.

Reduction of capital.

18.—(1) The company if it sees fit at any time, may, by by-law, provide for the decrease of the capital stock of the company to any amount which it may consider sufficient for the due carrying out of the undertaking of the company and advisable.

By-law for that purpose.

(2) The by-law shall declare the number and value of the shares of the stock as so decreased; and the allotment thereof or the rule or rules by which the same is to be made.

Liability of shareholders on decrease.

(3) The liability of shareholders to persons who are, at the time the stock is decreased, creditors of the company, shall remain as though the stock had not been decreased. 60 V., c. 28, s. 16.

Re-division of shares.

19. The company may at any time, by by-law, provide for the re-division of the existing shares into shares of smaller or larger amount. 60 V., c. 28, s. 17.

By-law to be confirmed by supplementary letters.

20. No by-law for increasing or decreasing the capital stock of the company, or re-dividing the shares, shall have any force or effect whatever unless and until it has been sanctioned by a vote of not less than two-thirds in value of the shareholders at a general meeting of the company duly called for considering the by-law, and has afterwards been confirmed by supplementary letters patent. 60 V., c. 28, s. 18.

Petition for supplementary letters patent.

21.—(1) At any time not more than six months after the sanction of such by-law, the company may petition the Lieutenant-Governor, through the Provincial Secretary, for the issue of supplementary letters patent to confirm the same.

(2) With the petition the company shall produce the by-law and establish to the satisfaction of the Provincial Secretary, or of such other officer as may be charged by him to report thereon, the due passage and sanction of the by-law, and if the petition is in respect of the increase or decrease of capital the *bona fide* character of the increase or decrease of capital thereby provided for.

By-law, etc.,
to be produced
with petition.

(3) Upon due proof so made, the Lieutenant-Governor in Council may by supplementary letters patent confirm the by-law, and, with respect to an increase or decrease in capital, may, with the consent of the company, by the supplementary letters patent, fix the amount of such increase or decrease at such sum as to him may seem proper; and notice thereof shall be given forthwith by the Provincial Secretary in *The Gazette*; and thereupon, from the date of the supplementary letters patent, the shares shall be re-divided, or the capital stock of the company shall be and remain increased or decreased, as the case may be, to the amount, in the manner, and subject to the conditions set forth by such by-law and supplementary letters patent; and the whole of the stock as so increased or decreased shall become subject to the provisions of this Act in like manner (so far as may be) as though every part thereof had originally formed part of the stock of the company. 60 V., c. 28, s. 19.

Granting of
supplemen-
tary letters
patent.

Notice
thereof.

Effect of such
letters patent.

22.—(1) The directors may make a by-law for creating and issuing any part of the capital stock as preference stock, giving the same such preference and priority as respects dividends and otherwise over ordinary stock as may be declared by the by-law.

Preferential
stock.

(2) The by-law may provide that the holders of shares of such preference stock shall have the right to select a certain stated proportion of the board of directors, or may give them such other control over the affairs of the company as may be considered expedient.

Special rights
of preference
shareholders.

(3) No such by-law shall have any force or effect whatever until after it has been unanimously sanctioned, by a vote of the shareholders, present in person or by proxy at a general meeting of the company duly called for considering the same, or unanimously sanctioned in writing by the shareholders of the company; provided, however, that if the by-law be sanctioned by three-fourths in value of the shareholders of the company, the company may, through the Provincial Secretary, petition the Lieutenant-Governor in Council for an order approving the said by-law, and the Lieutenant-Governor may, if he sees fit, approve thereof, and from the date of such approval the by-law shall be valid and may be acted upon.

Unanimous
sanction re-
quired.

Special
proviso.

(4) Holders of shares of such preference stock shall be shareholders within the meaning of this Act, and shall in all respects possess the rights and be subject to the liabilities of

Rights and
liabilities of
holders of
preference
stock.

shareholders within the meaning of this Act, provided, however, that in respect of dividends and otherwise, they shall as against the ordinary shareholders, be entitled to the preferences and rights given by such by-law.

Rights of
creditors not
impaired.

(5) Nothing in this section contained or done in pursuance thereof, shall affect or impair the rights of creditors of the company. 60 V., c. 28, s. 20.

USE OF THE WORD "LIMITED."

Unabbreviated word "limited" to be inserted in all notices, etc.

23.—(1) The company shall keep painted, or affixed, its name with the unabbreviated word "Limited" as the last word thereof, on the outside of every office or place in which the business of the company is carried on, in a conspicuous position, in letters easily legible; and shall have its name with the said unabbreviated word in legible characters on its seal, and shall have its name with the said unabbreviated word mentioned in legible characters in all notices, advertisements and other official publications of the company, and in all bills of exchange, promissory notes, indorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such company, and in all bills of parcels, invoices and receipts of the company. Provided that nothing herein contained shall be construed to render it obligatory upon any company to use the said unabbreviated word "Limited" in stamping, writing, printing or otherwise marking the name of the said company upon bales, parcels, crates or boxes containing goods or merchandise, or on goods, wares, merchandise or manufactures of the company, and no such marking shall be deemed to be an advertisement within the meaning of this sub-section. As amended by 61 V., c. 19, s. 2.

Proviso as to
name of company on goods,
bales, etc.

Directors
liable on written contracts,
which do not
show limited
liability.

(2) The directors of the company shall be jointly and severally liable upon every written contract or undertaking of the company on the face whereof the unabbreviated word "Limited" is not distinctly written or printed as the last word in the name of the company where it first occurs in such contract or undertaking.

Penalty for
violation of
preceding
section.

(3) Every company which does not keep painted or affixed its name, with the unabbreviated word "Limited" as the last word thereof, in the manner directed by this section, shall incur a penalty of twenty dollars for every day during which such name is not so kept painted or affixed.

Penalty for
permitting
violation.

(4) Every director and manager of the company who knowingly and wilfully authorizes or permits such default, shall be liable to the like penalty.

Penalty for
using or authorizing use
of seal without word

(5) Every director, manager or officer of the company, and every person on its behalf, who uses or authorizes the use of any seal purporting to be a seal of the company whereon its

name, with the said unabbreviated word "Limited" as the last word thereof, does not appear, or who issues or authorizes the issue of any notice, advertisement or other official publication of such company, or who signs or authorizes to be signed on behalf of such company any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or who issues or authorizes to be issued any bill of parcels, invoice or receipt of the company, wherein its name, with the said word as the last word thereof, is not mentioned in manner aforesaid, shall incur a penalty of two hundred dollars and shall also be personally liable to the holder of any such bill of exchange, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the company.

(6) This section shall not apply to any company not having gain for its purpose or object, where such company by its charter of incorporation is declared to be exempt from the provisions thereof, or to any company not having gain for its purpose or object, which, on proof thereof being shown to the Lieutenant-Governor in Council, is, on, from and after a date to be set forth in the order of the Lieutenant-Governor in Council in that behalf, declared to be exempt. 60 V., c. 28, s. 22; 61 V., c. 19, s. 3. Proviso.

(7) In the case of companies incorporated before the thirteenth day of April, 1897, this section shall not take effect so as to render any such company or the directors or officers thereof liable to the penalties or liabilities hereby imposed by reason of such company using the abbreviation "Ltd.," or any other abbreviation of the word "Limited," or to companies lawfully incorporated without the word "Limited" forming part of the name or style thereof, until after the first day of January, 1900; but this shall not relieve any such company from any penalty to which it would have been liable prior to the passing of the Act passed in the 60th year of Her Majesty's reign, chaptered 28. 61 V., c. 19, s. 4. Companies incorporated before 13th April, 1897, using abbreviation "Ltd."

CHANGE OF NAME.

24. In case it is made to appear to the satisfaction of the Lieutenant-Governor in Council that any company is incorporated under a name the same as, or so similar to that of an existing company, partnership, individual, or to any name under which any existing business is being carried on, as to deceive, it shall be lawful for the Lieutenant-Governor by an Order in Council to change the name of the company to some other name to be set forth in the order; and no such alteration of name shall affect the rights or obligations of the company; and all proceedings may be continued and commenced by or against the company by its new name, that might have been continued or commenced by or against the company by its former name. 60 V., c. 28, s. 23. Change of name if objectionable.

INCIDENTAL POWERS OF COMPANIES.

Powers incidental to incorporation.	25. The company shall, in addition to its other powers, possess power :
Seal.	(a) To alter or change its common seal at pleasure ;
Personal property.	(b) To take over, acquire, hold, use, sell and convey such personal property and movables, machinery, trade-marks, patents, licenses, and franchises or rights thereunder as may be deemed necessary, or expedient for the purposes for which the company is incorporated ;
Buildings.	(c) To erect on its property such works, shops, mills, buildings, houses and structures, and to make such improvements of what kind soever as may be convenient or necessary for the due carrying out of its undertaking ;
Construction and maintenance of useful works.	(d) To construct and maintain, or aid in the construction and maintenance of such works and improvements as may be deemed necessary, or advantageous to the due carrying out of its undertaking ;
General powers.	(e) To exercise and enjoy all the privileges and immunities and to do all acts requisite, or incidental to the due carrying on of its undertaking ;
Branches of business.	(f) To carry on any branch or branches of business incidental to the due carrying out of the objects for which the company was incorporated, and subsidiary thereto, and necessary to enable the company profitably to carry on its undertaking ;
Real estate.	(g) To acquire by purchase, lease or other title, and to hold, use, sell, alienate and convey any real estate necessary for the carrying on of its undertaking, and the company shall upon its incorporation become and be invested with all the property and rights, real and personal, theretofore held by or for it under any trust created with a view to its incorporation.
Restrictions as to holding real estate.	Provided, however, that, unless other special statutory enactments apply, no parcel of land, or interest therein at any time acquired by the company and not required for its actual use and occupation, or not held by way of security, or not situate within the limits, or within one mile of the limits of any city or town in this Province, shall be held by the company, or by any trustee on its behalf, for a longer period than seven years after the acquisition thereof, but shall be absolutely sold and disposed of, so that the company shall no longer retain any interest therein unless by way of security ; and further provided, that any such parcel of land, or any interest therein not

within the exceptions hereinbefore mentioned, held by the company for a longer period than seven years, without being disposed of, shall be forfeited to Her Majesty for the use of this Province; provided also that the Lieutenant-Governor in Council may extend the said period from time to time not exceeding in the whole twelve years; and further provided, that no such forfeiture shall take effect, or be enforced until the expiration of at least six calendar months after notice in writing to the company of the intention of Her Majesty to claim such forfeiture; and it shall be the duty of the company to give the Lieutenant-Governor in Council, when required, a full and correct statement of all lands at the date of such statement held by the company, or in trust for the company, and subject to these provisos. 60 V., c. 28, s. 24.

Forfeiture.

STOCK, CALLS, ETC.

26. If the letters patent or special Act make no other definite provision, the shares of stock of the company, so far as they are not allotted thereby, shall be allotted when and as the directors by by-law or otherwise ordain. 60 V., c. 28, s. 25.

Allotment of stock.

27. The shares of stock of the company shall be deemed personal estate, and shall be transferable on the books of the company in such manner only, and subject to all such conditions and restrictions as by this Act, or by the special Act, or by the letters patent or by-laws of the company may be prescribed. 60 V., c. 28, s. 26.

Stock, personal estate.

28. The directors may refuse to allow the entry, in any such book, of any transfer of shares of stock whereof the whole amount has not been paid in; and whenever entry is made in such book of any transfer of stock, not fully paid in, to a person not being of apparently sufficient means, the directors present when such entry is authorized shall be jointly and severally, liable to the creditors of the company in the same manner and to the same extent as the transferring shareholder, but for such entry, would have been; but if any director present when such entry is allowed, forthwith, enters a written protest against the same, and within eight days thereafter causes such protest to be notified, by registered letter, to the Provincial Secretary, such director may thereby, and not otherwise, exonerate himself from such liability. 60 V., c. 28, s. 27.

Directors may refuse transfer of stock in certain cases.

Their liability if they allow transfers to persons without means.

How director may exonerate himself.

29. No transfer of shares of stock, unless made by sale under execution, or under the order or judgment of some competent Court in that behalf, shall be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and as rendering the transferee liable, *ad interim*, jointly and severally with the transferor, to the company and

Transfer valid only after entry.

its creditors, until entry thereof has been duly made in the books of the company. 60 V., c. 28, s. 28.

Restriction as to transfers.

30. No share shall be transferable until all previous calls thereon have been fully paid in, or until declared forfeited for non-payment of calls thereon. 60 V., c. 28, s. 29.

Company not to be liable in respect of trusts, etc.

31. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share; and the receipt of the shareholder in whose name the same stands on the books of the company shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share, whether or not notice of the trust has been given to the company; and the company shall not be bound to see to the application of the money paid upon such receipt. 60 V., c. 28, s. 30.

Calling in instalments.

32. The directors of the company may call in and demand from the shareholders thereof, respectively, the amount unpaid on shares of stock by them subscribed or held, at such times and places and in such payments or instalments as the letters patent, or this Act, or the by-laws of the company require or allow; and interest shall accrue at the legal rate for the time being, upon the amount of any unpaid call, from the day appointed for payment of such call. 60 V., c. 28, s. 31.

Calls.
Ten per cent.
within first
year.

33. Not less than ten per centum upon the allotted shares of stock of the company shall, by means of one or more calls formally made, be called in and made payable within one year from the incorporation of the company; the residue when and as the by-laws of the company direct. 60 V., c. 28, s. 32.

Enforcement of payment of calls by action.

34. The company may enforce payment of all calls and interest thereon by action in any court of competent jurisdiction; and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to state that the defendant is a holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more, stating the number of calls and the amount of each, whereby an action has accrued to the company under this Act; and a certificate under the seal and purporting to be signed by any officer of the company, to the effect that the defendant is a shareholder, that such call or calls has or have been made and that so much is due by him and unpaid thereon, shall be received in all Courts as *prima facie* evidence to that effect. 60 V., c. 28, s. 33.

Forfeiture of shares.

35. If after such demand or notice as by the special Act, or by the letters patent or by-laws of the company is prescribed,

any call made upon any share or shares is not paid within such time as by such Act, or by such letters patent or by-laws may be limited in that behalf, the directors in their discretion, by resolution to that effect, reciting the facts and duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made; and the same shall thereupon become the property of the company and may be disposed of as, by by-law or otherwise, the company may ordain. 60 V., c. 28, s. 34.

36.—(1) Every executor, administrator, guardian or trustee shall represent the stock in his hands, at all meetings of the company, and may vote accordingly as a shareholder; and every person who pledges his stock may nevertheless represent the same at all such meetings, and may vote accordingly as a shareholder.

Trustees, etc., may vote.

Mortgagor of stock may vote.

(2) If stock be held jointly by two or more persons, any one of them present at a meeting may in the absence of the other, or others, vote thereon, but if more than one joint stockholder be present or be represented by proxy, they shall vote together on the stock jointly held. 60 V., c. 28, s. 35.

Joint holders of stock.

LIABILITY, ETC., OF SHAREHOLDERS.

37.—(1) Each shareholder, until the whole amount of his shares of stock has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution, but not beyond the amount so unpaid of his said shares of stock, shall be the amount recoverable with costs, against such shareholder. 60 V., c. 28, s. 36, first clause.

Liability of shareholders.

(2) Any shareholder may plead by way of defence, in whole or in part, any set-off which he could set up against the company except a claim for unpaid dividends, or a salary or allowance as a president or a director of the company. 60 V., c. 28, s. 36 (a).

Set-off.

(3) The shareholders of the company shall not as such be held responsible for any act, default or liability whatsoever, of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever, relating to or connected with the company, beyond the unpaid amount of their respective shares in the capital stock thereof. 60 V., c. 28, s. 36 (b).

Shareholders not liable.

38. No person holding shares of stock in the company as executor, administrator, guardian or trustee, shall be personally subject to liability as a shareholder; but the estates and funds

Trustees, etc., not personally liable.

in the hands of such person shall be liable in like manner and to the same extent, as the testator or intestate or the minor, ward, or person interested in the trust fund, would be, if living and competent to act and holding such stock in his own name. 60 V., c. 28, s. 37.

Mortgagees.

39. No person holding shares of stock as collateral security, shall be personally subject to liability as a shareholder; but the person transferring such shares as such collateral security shall be considered as holding the same, and shall be liable as a shareholder in respect thereof. 60 V., c. 28, s. 38.

DIRECTORS AND THEIR POWERS, ETC.

Board of directors.

40. The affairs of the company shall be managed by a board of not less than three directors who shall be elected by the shareholders in general meeting of the company assembled at some place within this Province. 60 V., c. 28, s. 39.

Provisional directors.

41. The persons named as provisional directors in the special Act or in the letters patent shall be the directors of the company, until replaced by others duly elected in their stead. 60 V., c. 28, s. 40.

Qualification of directors.

42. No person shall hold office as a director unless he is a shareholder owning stock absolutely in his own right, and not in arrear in respect of any call thereon, and where any person who is a director ceases to be a *bona fide* holder of stock in the company, he shall thereupon cease to be a director. 60 V., c. 28, s. 41, first clause.

Yearly elections.

43.—(1) The election of directors shall take place at the annual meeting, all the members of the board retiring, and (if otherwise qualified) being eligible for re-election.

Ballot.

(2) Elections of directors shall be by ballot;

Vacancies.

(3) Vacancies occurring in the board of directors may, unless the by-laws otherwise direct, be filled for the unexpired remainder of the term, by the board, from among the qualified shareholders of the company;

President and officers.

(4) The directors shall, from time to time, elect from among themselves a president of the company; and shall also name, and may remove at pleasure, all other officers thereof. 60 V., c. 28, s. 41 (1-4).

Failure to elect directors, how remedied.

44. If at any time an election of directors is not made, or does not take effect at the proper time, the company shall not be held to be thereby dissolved; but such election may take place at any general meeting of the company duly called for that purpose; and directors shall continue in office until their successors are duly elected. 60 V., c. 28, s. 42.

45.—(1) A company may by by-law increase or decrease the number of its directors, or may change the company's head office in Ontario. Change by by-law of number of directors or of head office in Ontario.

(2) No by-law, for either of the said purposes shall be valid or acted upon unless it has been sanctioned by a vote of not less than two-thirds in value of the shareholders at a meeting of the company duly called for considering the subject of the by-law, nor until a copy of the by-law, certified under the seal of the company, has been transmitted to the Provincial Secretary, and also has been published by the company once in *The Gazette*. Validation of by-law.

(3) In case the head office of the company is being changed as aforesaid, then the company shall forthwith give notice of the fact in such newspapers and for such time as the regulations made under section 11 of this Act may prescribe. 60 V., c. 28, s. 43. Notice.

46. The directors of the company shall have full power in all things to administer the affairs of the company; and may make, or cause to be made for the company, any description of contract which the company may by law enter into. 60 V., c. 28, s. 44. Powers and duties of directors.

47. The directors may, from time to time, make by-laws not contrary to law, or to the letters patent of the company or to this Act, to regulate— By-laws.

- (a) The allotment of stock; the making of calls thereon; the payment thereof; the issue and registration of certificates of stock; the forfeiture of stock for non-payment; the disposal of forfeited stock and of the proceeds thereof; the transfer of stock; Stock.
- (b) The declaration and payment of dividends; Dividends.
- (c) The term of service not exceeding two years, and the amount of the stock qualification of the directors. Directors, service, etc.
- (d) The appointment, functions, duties and removal of all officers, agents and servants of the company; the security to be given by them to the company; and their remuneration; Officers.
- (e) The time at which, and place where the general meetings of the company shall be held; the calling of meetings, regular and special, of the board of directors, and of the company; the quorum; the requirements as to proxies; and the procedure in all things at such meetings; Meetings.
- (f) The imposition and recovery of all penalties and forfeitures admitting of regulation by by-law; and Fines.

Conduct of
affairs gener-
ally.

(g) The conduct in all other particulars of the affairs of the company;

Confirmation
of by-laws.

and may from time to time repeal, amend, or re-enact the same; but every such by-law, and every repeal, amendment, or re-enactment thereof, unless in the meantime confirmed at a general meeting of the company duly called for that purpose, shall only have force until the next annual meeting of the company; and in default or confirmation thereof, shall, at and from that time only, cease to have force; and in that case no new by-law to the same or the like effect shall have any force until confirmed at a general meeting of the company; provided, however, that the company shall have power either at the general meeting called as aforesaid, or at the annual meeting of the company, to repeal, amend, vary or otherwise deal with any by-laws which have been passed by the directors, but no act done or right acquired under any by-law shall be prejudicially affected by any such repeal, amendment, variation or other dealing. 60 V., c. 28, s. 45.

By-laws may
be varied.

Payment to
president or
directors.

48. No by-law for the payment of the president or any director, shall be valid or acted upon until the same has been confirmed at a general meeting. 60 V., c. 28, s. 46.

Borrowing
powers.

49. If authorized by by-law, passed by the directors and sanctioned by a vote of not less than two-thirds in value of the shareholders present in person or by proxy at a general meeting of the company duly called for considering the subject of such by-law, the directors of the company may:

(a) Borrow money upon the credit of the company;

(b) Limit or increase the amount to be borrowed;

Power to issue
bonds or
debentures,
and

(c) Issue the bonds, debentures or other securities of the company for the lawful purposes of the company, and no other, and may pledge or sell the same for such sums and at such prices as may be deemed expedient or be necessary; but no such bonds, debentures, or other securities shall be for a less sum than one hundred dollars each, and

to grant
mortgages.

(d) Hypothecate, mortgage or pledge all or any of the real or personal property, rights and powers of the company to secure any such bonds, debentures or other securities, and any indebtedness or sum or sums so borrowed for the purposes of the company. 60 V., c. 28, s. 47.

ANNUAL, GENERAL AND SPECIAL MEETINGS.

Mode of
election.

50. In default only of other express provisions in such behalf, by the special Act, or by the letters patent or by-laws of the company, notice of the time and place for holding

Notice.

general, including the annual, meetings of the company shall be given at least ten days previously thereto, in some newspaper published at or as near as may be to the head office, and to the chief place of business of the company, if these differ; and also, in the case of companies having a capital exceeding \$3,000, either by publishing the same in *The Gazette*, or by mailing the same as a registered letter duly addressed to each shareholder at his last known post-office address at least ten days previous to such meeting. 60 V., c. 28, s. 48.

51. A general meeting, to be known as the annual meeting of the company, shall be held at such time and place in each year as the letters patent or by-laws of the company may provide, and in default of such provisions in that behalf the annual meeting shall be held on the fourth Wednesday in January in every year, at such place as may be determined by the directors. 60 V., c. 28, s. 49. Annual meeting.

52. The directors may, whenever they think fit and they shall upon a requisition made in writing by the holders of not less than one-tenth of the subscribed capital stock of the company, convene a special general meeting of the company. 60 V., c. 28, s. 50. Special meetings.

53. Any requisition made by the shareholders shall express the object of the special general meeting proposed to be called, and shall be left at the head office of the company. 60 V., c. 28, s. 51. Object.

54. Upon the receipt of such requisition the directors shall forthwith proceed to convene a special general meeting. If they do not proceed to cause the same to be held within twenty-one days from the date upon which the requisition was left at the head office of the company, the requisitionists, or any other shareholders amounting to the required one-tenth of the subscribed capital stock of the company may themselves convene such special general meeting. 60 V., c. 28, s. 52. Duty of directors.

55. Ten days' notice at the least, specifying the place, the day and the hour of meeting, and the general nature of the business to be considered, shall be given to the shareholders by the directors, or by the requisitionists, as the case may be, in manner mentioned in section 50 of this Act, or in such other manner, if any, as the by-laws of the company may prescribe. 60 V., c. 28, s. 53. Notice for special meetings.

56. No business shall be transacted at any such special general meeting called upon, or pursuant to requisition as aforesaid, unless a quorum of shareholders is present in person, or by proxy, at the time when the meeting proceeds to business; and such quorum shall be ascertained as follows, that is Quorum.

to say, if the shareholders at the time of the meeting do not exceed ten in number, the quorum shall be three; if they exceed ten there shall be added to the above quorum one for every four additional shareholders up to fifty, and one for every ten additional shareholders after fifty, with this limitation, that no quorum in any case shall exceed twenty. 60 V., c. 28, s. 54.

Dissolution
of meeting.

57. If within one hour from the time appointed for such special general meeting, called upon or pursuant to requisition aforesaid, a quorum is not present, the meeting shall be dissolved. 60 V., c. 28, s. 55.

Presiding
officer.

58. The president of the company shall preside as chairman at every general meeting of the company. 60 V., c. 28, s. 56.

Chairman to
be elected
when neces-
sary.

59. If there is no president, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the shareholders present shall choose some one of their number to be chairman. 60 V., c. 28, s. 57.

Adjournment
by consent.

60. The chairman may, with the consent of the meeting, and subject to such conditions and restrictions as the meeting may decide, adjourn any meeting from time to time, and from place to place. 60 V., c. 28, s. 58.

Procedure as
to resolutions.

61. At any general meeting, unless a poll is demanded, a declaration by the chairman that a resolution has been carried and an entry to that effect in the proceedings of the company, shall be *prima facie* evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. 60 V., c. 28, s. 59.

When poll is
demanded.

62. If a poll is demanded it shall be taken in such manner as the by-laws prescribe, and in default thereof, then as the chairman may direct. In the case of an equality of votes, at any general meeting, the chairman shall be entitled to a second or casting vote. 60 V., c. 28, s. 60.

Votes.

63. At all general meetings of the company, every share holder shall be entitled to as many votes as he holds shares in the company, and may vote by proxy. 60 V., c. 28, s. 61, first part.

Shareholders
in arrear not
to vote.

64. No shareholder being in arrear in respect of any call shall be entitled to vote at any meeting of the company. 60 V., c. 28, s. 61 (a).

NOTICES, ACTIONS, ETC.

Mode of incor-
poration, etc.,
how to be set
forth in legal
proceedings.

65. In an action or other proceeding, it shall not be requisite to set forth the mode of incorporation of the company, otherwise than by mention of it under its corporate name, as

incorporated by virtue of a special Act, or of letters patent, or of letters patent and supplementary letters patent, as the case may be; and the letters patent, or supplementary letters patent themselves, or any exemplification, or copy thereof under the Great Seal, shall be conclusive proof of every matter and thing therein set forth. 60 V., c. 28, s. 62.

66. A copy of any by-law of the company, under its seal, and purporting to be signed by any officer of the company shall be received as *prima facie* evidence of the by-law in all Courts in Ontario. 60 V., c. 28, s. 63. Evidence of by-laws.

67. Any writ, notice, order or proceeding requiring authentication by the company may be signed by any director, manager or other authorized officer of the company, and need not be under the seal of the company. 60 V., c. 28, s. 64. Authentication of summons and notices.

68. A notice to be served by the company upon a shareholder may be served either personally or by sending it through the post, in a registered letter, addressed to the shareholder at his place of abode as it last appeared on the books of the company. 60 V., c. 28, s. 65. Service of notices.

69. A notice or other document served by post by the company on a shareholder shall be held to be served at the time when the registered letter containing it would be delivered in the ordinary course of post; and to prove the fact and time of service it shall be sufficient to prove that such letter was properly addressed and registered, and was put into the post-office, and the time when it was put in, and the time requisite for its delivery in the ordinary course of post. 60 V., c. 28, s. 66. Time of service.

70. Any description of action may be prosecuted and maintained between the company and any shareholder thereof, and no shareholder shall, by reason of being a shareholder, be incompetent as a witness therein. 60 V., c. 28, s. 67. Proof of service.

BOOKS TO BE KEPT AND WHAT TO CONTAIN.

71. The company shall cause the secretary or some other officer especially charged with that duty, to keep a book or books wherein shall be kept recorded:— Actions between company and shareholders.

- (a) A copy of the letters patent incorporating the company and of any supplementary letters patent issued to the company; and if incorporated by special Act, the chapter and year of such Act;
- (b) The names, alphabetically arranged, of all persons who are or have been shareholders in the company;
- (c) The post-office address and calling of every such person while such shareholder;

Record books to be kept and what to contain.

- (d) The number of shares of stock held by each shareholder;
- (e) The amounts paid in, and remaining unpaid, respectively, on the stock of each shareholder;
- (f) The date and other particulars of all transfers of stock in their order; and
- (g) The names, post-office addresses and callings of all persons who are or have been directors of the company; with the several dates at which each person became or ceased to be such director. 60 V., c. 28, s. 68.

Penalty for
false entries.

72. No director, officer or servant of the company shall knowingly make or assist to make any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein; and any person violating wilfully the provisions of this section shall, besides any criminal liability which he may thereby incur, be liable in damages for all loss or injury which any person interested may have sustained thereby. 60 V., c. 28, s. 69.

Powers of
judge as to en-
tries in, omis-
sions from,
and rectifica-
tion of books.

73.—(1) If the name of any person is, without sufficient cause, entered in or omitted from such book or books of the company, or if default is made or unnecessary delay takes place in entering in said books the fact of any person having ceased to be a shareholder of the company, the person or shareholder aggrieved, or any shareholder of the company, or the company itself may by application to a Judge apply for an order that the book or books be rectified, and the Judge may either refuse such application with or without costs to be paid by the applicant, or he may, if satisfied of the justice of the case, make an order for the rectification of the said book or books, and may direct the company to pay the costs of such motion or application and any damages the party aggrieved may have sustained. The Judge may in any proceeding under this section, decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from the said books of the company, whether such question arises between two or more shareholders, or alleged shareholders, or between any shareholders or alleged shareholders and the company, and, generally, the Judge may in any such proceeding decide any question which it may be necessary or expedient to decide for the rectification of the said books.

Costs.

Decision as to
title.

(2) The Judge may direct an issue to be tried in which any question of law may be raised.

Appeal.

(3) An appeal shall lie, as in ordinary cases, before such Judge.

(4) This section shall not deprive any Court of any jurisdiction it may have. 60 V., c. 28, s. 70.

74. Such books shall, during reasonable business hours of every day, except Sundays and holidays, be kept open for the inspection of shareholders and creditors of the company, and their personal representatives or agents at the head office, and every such shareholder, creditor, agent or representative, may make extracts therefrom. 60 V., c. 28, s. 71.

Books to be open for inspection.

75. Any director or officer who refuses to permit any person entitled thereto to inspect such book or books, or make extracts therefrom, shall forfeit and pay to the party aggrieved the sum of one hundred dollars; and in case the amount is not paid within seven days after the recovery of judgment, the Court in which the judgment is recovered, or a Judge thereof, may direct the imprisonment of the offender for any period not exceeding three months, unless the amount with costs is sooner paid. 60 V., c. 28, s. 72.

Liability for refusal to allow inspection of books.

76. Such books shall be *prima facie* evidence of all facts purporting to be thereby stated, in any action or proceeding against the company or against any shareholder. 60 V., c. 28, s. 73.

Books to be *prima facie* evidence.

77. The directors shall cause proper books of account to be kept containing full and true statements

Books of account to be kept.

- (a) Of the company's financial and trading transactions;
- (b) Of the stock-in-trade of the company;
- (c) Of the sums of money received and expended by the company, and the matters in respect of which such receipt or expenditure takes place, and,
- (d) Of the credits and liabilities of the company;

and also a book or books containing minutes of all the proceedings and votes of the company, or of the board of directors, respectively, and the by-laws of the company, duly authenticated, and such minutes shall be verified by the signature of the president, or other presiding officer of the company. 60 V c. 28, s. 74.

Minutes of proceedings.

ANNUAL STATEMENT AND SUMMARY, ETC.

78. At each annual meeting, or, at least, once in every year, and at intervals of not more than fifteen months, the directors shall, at a general meeting duly called, lay before the company a statement of the income and expenditure of the company for the past year, made up to a date not more than three months before such annual or general meeting, and shall also lay before the company such further information respecting the company's financial position and profit and loss account as the by-laws or the charter of the company may require. 60 V., c. 28, s. 75.

Annual statement of income and expenditure.

Annual summary of the affairs of the company.

Contents of statement.

79.—(1) The company shall, on or before the first day of February in every year, make out a summary in duplicate verified as hereinafter required, containing as of the thirty-first day of December preceding, correctly stated, the following particulars :—

- (a) The corporate name of the company ;
- (b) The manner in which the company is incorporated, whether by special Act, or by letters patent ;
- (c) The place where the head office of the company is situated ;
- (d) The place or places where or from which the undertaking of the company is carried on ;
- (e) The name, residence and post-office address of the president and of the secretary, and of the treasurer of the company ;
- (f) The name, residence and post-office address of each of the directors of the company ;
- (g) The date upon which the last annual meeting of the company was held ;
- (h) The amount of the capital of the company and the number of shares into which it is divided ;
- (i) The number of shares subscribed for and allotted ;
- (j) The amount of stock (if any) issued free from call ; if none is so issued, this fact to be stated ;
- (k) The amount issued subject to call ;
- (l) The amount of calls made on each share ;
- (m) The total amount of calls received ;
- (n) The total amount of calls unpaid ;
- (o) The total amount of shares forfeited ;
- (p) The total amount of shares which have never been allotted or subscribed for ;
- (q) The total amount for which shareholders of the company are liable in respect of unpaid stock held by them ;

(2) The said summary may also, after giving the information hereinbefore required, give in a concise form, such further information respecting the affairs of the company as the directors may consider expedient.

List of shareholders.

(3) The summary shall also contain a list of persons who, on the 31st day of December previously, were shareholders of the

company; and such list shall state the names alphabetically arranged, and the address and occupation of each such person; the amount of stock held by each; and the amount if any unpaid and still due by each such person;

(4) Every company so long as it carries on the business of warehousing crude petroleum shall state the following additional particulars in the summary:—

Return as to crude petroleum.

(i.) The total quantity of crude petroleum actually held by the company for the purpose of answering transportation and warehouse receipts, accepted orders, and certificates of crude petroleum.

(ii.) The total quantity of crude petroleum in respect of which the company as warehousemen or carriers are liable to make delivery to other persons.

[As to returns by companies carrying on the business of warehousing crude petroleum, see also Cap. 219, sec. 4.]

(5) The summary, and every duplicate thereof required by this Act, shall be written, or printed on only one side of the sheet or sheets of paper containing the same.

Mode of writing the same.

(6) The summary shall be verified by the affidavit of the president and secretary, and if there are no such officers, or they, or either of them, are or is, at the proper time out of this Province, or otherwise unable to make the same, by the affidavit of the president or secretary and one of the directors, or two of the directors, as the case may require; and if the president or secretary does not make or join in the affidavit, the reason thereof shall be stated in the substituted affidavit.

Verification thereof.

(7) One of the duplicate summaries with the affidavit of verification, shall be posted up in a conspicuous position in the head office of the company in Ontario, on or before the 2nd day of February; and the company shall keep the same so posted, until another summary is posted under the provisions of this Act; and the other duplicate summary, verified as aforesaid, shall on or before the 8th day of February next after the time hereinbefore fixed for making the summary be transmitted, by registered letter, to the Provincial Secretary and be addressed to him at the Parliament Buildings, Toronto.

Posting thereof.

Deposit with Provincial Secretary.

(8) If a company makes default in complying with the provisions of this section, the company shall incur a penalty of \$20 for every day during which the default continues, and every director, manager or secretary of the company, who knowingly and wilfully authorizes or permits such default, shall incur the like penalty.

Penalty for default.

(9) This section shall not apply to any company until the 1st day of February next after the first 31st day of December, after the company has been organized, or has gone into actual

When section not to apply.

operation, whichever shall first happen, and shall not be held to apply to any company which has ceased to carry on business; and upon its being proved that any company to which this Act applies did not transact any business (other than the payment of taxes or the making of a return, or the furnishing of any list, statement, or other information to the Government of Ontario, or to any officer or department thereof) during the year for which it is alleged a return in accordance with the requirements of law has not been made, such company shall be deemed to have ceased to carry on business within the meaning of this sub-section.

Further proviso.

(10) This section shall not apply to any company not having gain for its purpose or object, where such company by its charter of incorporation is declared to be exempt from the provisions thereof, or to any company not having gain for its purpose or object, which, on proof thereof being shown to the Lieutenant-Governor in Council, is, on, from and after a date to be set forth in the order of the Lieutenant-Governor in Council in that behalf, declared to be exempt. 60 V., c. 28, s. 76; 61 V., c. 19, s. 5.

INSPECTION.

The Court may appoint an inspector.

80.—(1) Upon an application by not less than one-fifth in value of the shareholders of the company, a Judge may, if he deems it necessary, appoint an inspector to investigate the affairs and management of the company, who shall report thereon to the Judge, and the expense of such investigation shall, in the discretion of the Judge, be defrayed by the company, or by the applicants, or partly by the company and partly by the applicants as he may order, and, if he thinks fit, he may require the applicants to give security to cover the probable cost of the investigation, and he may make necessary rules and prescribe the manner in which and the extent to which the investigation shall be conducted; or the Judge may, if he deems it necessary, examine the officers or directors of the company under oath as to matters that come in question.

Examination by company.

Powers and duties of inspector.

(2) The company may by resolution passed at the annual meeting, or at a special general meeting called for the purpose, appoint an inspector to examine into the affairs of the company. The inspector so appointed shall have the same powers and perform the same duties as an inspector appointed by a Judge, with this exception, that instead of making his report to the Judge he shall make the same in such manner and to such persons as the company by said resolution directs.

Production of books and documents.

Examination on oath.

(3) It shall be the duty of all officers and agents of the company to produce for the examination of any such inspector all books and documents in their custody or power. Any such inspector may examine upon oath the officers and agents of the company in relation to its business, and may administer

such oath accordingly. If any officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the company, he shall incur a penalty not exceeding \$20, in respect of each offence. 60 V., c. 28, s. 77.

Penalty for non-production.

CONTRACTS, DIVIDENDS, ETC.

81. Every contract, agreement, engagement or bargain made and every bill of exchange drawn, accepted or indorsed, and every promissory note and cheque made, drawn or indorsed on behalf of the company by any agent, officer or servant of the company, in general accordance with his powers as such under the by-laws or resolutions of the company shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or indorsed, as the case may be, in pursuance of any by-law, resolution or special vote or order; nor shall the person so acting as agent, officer or servant of the company, be thereby subjected individually to any liability therefor. 60 V., c. 28, s. 78.

Contracts, etc., when to be binding on company.

82. The company shall not under any circumstances use any of its funds in the purchase of stock in any other corporation, unless and until the directors have been expressly authorized by a by-law passed by them for the purpose and sanctioned by a vote of not less than two-thirds in value of the shareholders present in person or by proxy at a general meeting of the company duly called for considering the subject of the by-law. 60 V., c. 28, s. 79.

Not to purchase stock in other corporations.

83. The directors of the company shall not declare or pay any dividend when the company is insolvent, or any dividend the payment of which renders the company insolvent, or diminishes the capital thereof; but if any director present when such dividend is declared, forthwith, or if any director then absent, within twenty-four hours after he has become aware thereof and able so to do, enters his written protest against the same, and within eight days thereafter causes such protest to be notified, by registered letter, to the Provincial Secretary, such director may thereby, and not otherwise, exonerate himself from liability. 60 V., c. 28, s. 80.

Liability of directors declaring a dividend when company is insolvent, etc.

How a director may avoid such liability.

84. No loan shall be made by the company to any shareholder, and if such loan is made, all directors and other officers of the company making the same, and in anywise assenting thereto shall be jointly and severally liable to the company for the amount thereof and also to third parties to the extent of such loan with legal interest, for all debts of the company contracted from the time of the making of the loan to that of the repayment thereof. 60 V., c. 28, s. 81.

No loan by company to shareholder.

Liability of
directors for
wages.

85. The directors of the company shall be jointly and severally liable to the labourers, servants and apprentices thereof for all debts not exceeding one year's wages due for services performed for the company while they are such directors respectively; but no director shall be liable to an action therefor, unless the company has been sued therefor within one year after the debt became due, nor yet unless such director is sued therefor within one year from the time when he ceased to be such director, nor yet before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution shall be the amount recoverable with costs against the directors. 60 V., c. 28, s. 82.

Winding up
Acts to apply.

86. The company shall be subject to the provisions of any Act of the Legislature for the winding up of joint stock companies. 60 V., c. 28, s. 83.

AUDITORS AND THEIR DUTIES.

Accounts may
be audited.

87. If the special Act, letters patent or the by-laws of the company so direct, the accounts of the company shall be examined once at least in every year, and the correctness of the balance-sheet shall be ascertained, by an auditor. 60 V., c. 28, s. 84.

Appointment
of first audi-
tor.

88. Such auditor may be appointed by resolution at a general meeting of the company; if so appointed, he shall hold office until the next annual general meeting thereafter unless previously removed by a resolution of the shareholders in general meeting; subsequent auditors may be appointed by a resolution of the company in general meeting. 60 V., c. 28, s. 85.

Auditors may
be share-
holders.

89. The said auditor may be a shareholder of the company, but no person shall be eligible as an auditor who is interested, otherwise than as a shareholder, in any transaction of the company; and no director or other officer of the company shall be eligible during his continuance in office. 60 V., c. 28, s. 86.

Remuneration
of auditors.

90. The remuneration of the auditor shall be fixed by the company in general meeting. 60 V., c. 28, s. 87.

Auditors re-
eligible.

91. Any auditor shall be eligible for reappointment. 60 V., c. 28, s. 88.

Auditors to
examine
accounts, etc.

92. Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto. 60 V., c. 28, s. 89.

Access of
auditors to
books, etc.

93. Every auditor shall have a list delivered to him of all books kept by the company, and shall at all reasonable times have access to the books and accounts of the company. 60 V., c. 28, s. 90.

94. The auditor shall make a report to the shareholders upon the balance-sheet and accounts, and in every such report he shall state whether, in his opinion, the balance-sheet is a full and fair balance-sheet, and properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, and, in case he has called for explanations, or information from the directors, or officers of the company, whether such explanation, or information has been given by the directors, and whether it has been satisfactory. 60 V., c. 28, s. 91.

Auditors to make reports to shareholders.

FEES, ETC.

95.—(1) The Lieutenant-Governor in Council may, from time to time, establish, alter and regulate the tariff of the fees to be paid on applications under this Act; may designate the department or departments through which the issue of letters patent, or supplementary letters, or of licenses should be made; and may prescribe the forms of proceeding and record in respect thereof, and all other matters requisite for carrying out the objects of this Act.

Fees on letters patent, etc., to be fixed by Order-in-Council.

(2) Such fees may be made to vary in amount under any rule or rules—as to nature of company, amount of capital and otherwise—that may be deemed expedient.

May be varied.

(3) No step shall be taken in any department towards the issue of any letters patent or supplementary letters patent, or license under this Act, until after all fees therefor have been duly paid. 60 V., c. 28, s. 92.

Restriction.

96. The provisions of this and any other Act relating to matters preliminary to the issue of the letters patent shall be deemed to be directory only; and no letters patent, or supplementary letters patent, or license, notice, order or other proceeding by or on behalf of the Lieutenant-Governor in Council, Provincial Secretary, or other Government or departmental officer under this or any other Act shall be held to be void or voidable on account of any irregularity, or otherwise, in respect of any matter preliminary to the issue of the letters patent, or supplementary letters patent, license, notice, order or other proceeding or of any alterations in any petition or papers submitted in order to make them comply with this or any other Act, or with the departmental practice thereunder. 60 V., c. 28, s. 93.

Certain informalities not to invalidate letters patent, etc.

LIABILITY FOR FALSE STATEMENTS.

97.—(1) If any person in any return, report, certificate, balance-sheet, or other document required by or for the purposes of this Act, wilfully makes a statement false in any material particular, he shall be liable on conviction on indictment to imprisonment for a term not exceeding six months, with or without hard labor, and on summary conviction to imprisonment not exceeding three months, with or without hard labor,

False returns, etc.

and in either case to a fine of \$100 in lieu of or in addition to such imprisonment as aforesaid.

(2) A person charged with an offence under this section, may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the like effect and consequences as any other witness. 60 V., c. 28, s. 94.

[As to the liability of directors and others for untrue statements in a prospectus advertisement or notice, see Cap. 216.]

FORFEITURE OR SURRENDER OR REVOCATION OF A CHARTER, ETC.

Forfeiture of
charter for
non-user.

98. If a company incorporated by letters patent does not go into actual operation within two years after incorporation, or, for two consecutive years, does not use its corporate powers, such powers, except so far as is necessary for winding up the company, shall be forfeited, and its name, in whole or in part, may be granted to another company, notwithstanding anything contained in section 10 of this Act; and, in any action of proceeding where such non-user is alleged, proof of user shall lie upon the company, provided, however, that no such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of such forfeiture. 60 V., c. 28, s. 97, first part.

Revocation of
charter.

99. The charter of a company incorporated by letters patent, may, at any time, be declared to be forfeited, and may be revoked and made void by an order of the Lieutenant-Governor in Council on sufficient cause being shown to the Lieutenant-Governor in Council in that behalf, and such forfeiture, revocation and making void may be upon such conditions and subject to such provisions as to the Lieutenant-Governor may seem proper. 60 V., c. 29, s. 97 (a).

Individual
liability for
whole of the
company's
debts if busi-
ness is carried
on with less
than five
members.

100. If a company carries on business when the number of its shareholders is less than five for a period of six months after the number has been so reduced, every person who is a shareholder in the company during the time that it so carries on business after such period of six months and is cognizant of the fact that it is so carrying on business with less than five shareholders shall be severally liable for the payment of the whole of the debts of the company contracted during such time, and may be sued for the same without the joinder in the action or suit of the company or of any other shareholder; but any shareholder who has become aware that the company is carrying on business when the number of its shareholders is less than five, may serve a protest in writing on the company, and may, by registered letter, notify the Provincial Secretary of such protest having been served, and of the facts upon which

it is based, and such shareholder may thereby, and not otherwise, from the date of his said protest and notification, exonerate himself from liability; and if after notice from the Provincial Secretary the company refuses or neglects to bring the number of its shareholders up to five, such refusal or neglect may, upon the report of the Provincial Secretary, be regarded by the Lieutenant-Governor in Council as sufficient cause for the revocation of the company's charter. 60 V., c. 28, s. 98.

101. The charter of a company incorporated by letters patent may be surrendered if the company proves to the satisfaction of the Lieutenant-Governor in Council : A charter may be surrendered.

- (a) That it has no debts existing, or other rights in question, or
- (b) That it has parted with its property, divided its assets ratably amongst its shareholders, and has no debts, or liabilities, or
- (c) That the debts and obligations of the company have been duly provided for or protected, or that the creditors of the company or other persons holding them consent,

and that the company has given notice of the application for acceptance of surrender as may be required by regulations made under section 11 of this Act; and the Lieutenant-Governor in Council, upon a due compliance with the provisions of this section, may accept and direct the cancellation of the charter and may, by his order, fix a date upon and from which the company shall be deemed to be dissolved, and the company shall thereby and thereupon become dissolved accordingly. 60 V., c. 28, s. 99.

EXTENSION OF POWERS.

102. In case a resolution, authorizing an application by petition to the Lieutenant-Governor therefor, is passed by a vote of not less than two-thirds in value of the shareholders present in person or by proxy at a general meeting of the company, duly called for considering the subject of such resolution, the Lieutenant-Governor in Council may, from time to time, direct the issue of supplementary letters patent to the company embracing any or all of the following matters : Additional powers which may be granted by supplementary letters patent.

- (a) Extending the powers of the company to any objects within the scope of this Act, which the company may desire;
- (b) Providing for the formation of a reserve fund;
- (c) Varying any provision contained in the letters patent, so long as the alteration desired is not contrary to the provisions of this Act;

- (d) Making provision for any other matter or thing in respect of which provision might be made by original letters patent under this Act. 60 V., c. 28, s. 101; c. 3, s. 3.

AMALGAMATION OF COMPANIES.

Amalgamation of companies,

103.—(1) Any two or more companies incorporated under the laws of this Province and having objects within the scope of this Act may, in the manner herein provided, unite, amalgamate and consolidate their stock, property, businesses and franchises, and may enter into all contracts and agreements therewith necessary to such union and amalgamation.

Joint agreement between directors proposing to amalgamate, etc.

(2) The directors of the companies proposing to so amalgamate or consolidate as aforesaid, may enter into a joint agreement, to be executed under the corporate seal of each of the said companies, for the amalgamation and consolidation of the said companies, prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new company, of which the last word shall be the word "Limited," the number of the directors thereof, and who shall be the first directors thereof and their places of residence, the number of shares of the capital stock, the amount of par value of each share, and the manner of converting the capital stock of each of the said corporations into that of the new corporation, and how, and when directors of the new corporation shall be elected, with such other details as they deem necessary to perfect the new organization and the consolidation and amalgamation of the said companies, and the after management and working thereof.

To be submitted to shareholders of each company for consideration.

(3) The agreement shall be submitted to the shareholders of each of the said companies at a meeting thereof called in accordance with the by-laws and held separately for the purpose of taking the same into consideration.

Vote by ballot to be taken.

(4) At such meetings of shareholders, the agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, and each share shall entitle the holder thereof to one vote, and the ballots shall be cast in person or by proxy; and if two-thirds of the votes of all the shareholders of each of such companies are for the adoption of the agreement, then that fact shall be certified upon the agreement by the secretary of each of such companies under the corporate seal thereof; and if the agreement is so adopted at the respective meetings of the shareholders of each of the said companies, the companies by their joint petition may, through the Provincial Secretary, apply to the Lieutenant-Governor in Council for letters patent confirming the said agreement.

Upon completion of consolidation,

(5) With their joint petition, the companies shall deposit with the Provincial Secretary, an original of the agreement,

and shall furnish such further and other documents and evidence in this behalf as the Provincial Secretary may require, and the Lieutenant-Governor in Council may by letters patent confirm such agreement, and on and from the date of the letters patent, confirming the said agreement, and from such date only, the said companies shall be deemed and taken to be amalgamated and consolidated and to form one company by the name in the said agreement and letters patent provided, and the consolidated company shall possess all the properties, real, personal and mixed, rights, privileges, and franchises and be subject to all the liabilities, contracts, disabilities and duties of each of the companies so consolidated.

the new corporation to possess rights, powers, etc., and be subject to duties, etc., of each of united societies.

(6) All rights of creditors to obtain payment of their claims out of the property, rights and assets of the company liable for such claims and all liens upon the property, rights, and assets of either of such companies shall be unimpaired by such consolidation, and all debts, contracts, liabilities and duties of either of the said companies shall thenceforth attach to the consolidated company, and be enforced against it to the same extent as if the said debts, contracts, liabilities and duties had been incurred or contracted by it.

Proviso as to rights of creditors, etc., of either of corporations.

(7) No action or proceeding, by or against the said corporations so consolidated, or either of them, shall abate or be affected by such consolidation, but for all the purposes of such action or proceeding, such corporation may be deemed still to exist, or the new corporation may be substituted in such action or proceeding in the place thereof.

Proviso as to actions against.

(8) The Provincial Secretary shall give such a notice respecting the amalgamation of the said companies as the regulations made under section 11 of this Act may prescribe. 60 V., c. 28, s. 102.

Notice of amalgamation.

RE-INCORPORATION BY INCORPORATED COMPANIES.

104.—(1) Any company incorporated, for purposes or objects within the scope of this Act, or within the scope of this Act as it may be hereafter amended, whether under a special or a general Act, and being at the time of its application a subsisting and valid corporation, may apply for letters patent under this Act; and the Lieutenant-Governor in Council, upon proof that notice of the application has been inserted for four weeks in the *Ontario Gazette*, may direct the issue of letters patent incorporating the shareholders of the said company as a company under this Act, and thereupon all the rights or obligations of the former company shall be transferred to the new company, and all proceedings may be continued and commenced by or against the new company, that might have been continued or commenced by or against the old company, and it shall not be necessary in any such letters patent to set out the names of the shareholders; and after the issue of the letters

Subsisting companies may apply under this Act.

patent, the company shall be governed in all respects by the provisions of this Act, except that the liability of the shareholders to creditors of the old company shall remain as at the time of the issue of the letters patent.

Existing companies may apply for letters patent with extended powers.

(2) Where a company is re-incorporated under the preceding sub-section the Lieutenant-Governor may, by the letters patent, increase the capital stock of the company to any amount which the shareholders of the company applying for re-incorporation may, by a resolution passed by a vote of not less than two-thirds in value of those present in person or by proxy at a general meeting of the company duly called for considering the same, have declared to be requisite for the due carrying out of the objects of the company.

(3) The resolution may prescribe the manner in which the new stock is to be allotted; and in default of its so doing, the control of the allotment shall vest absolutely in the directors of the new company. R. S. O. 1887, c. 157, s. 72.

Letters patent for certain purposes may be granted to companies incorporated under special Acts.

105. Where an existing company applies for the issue of letters patent under the provisions of the preceding section, the Lieutenant-Governor may by the letters patent extend the powers of the company to such other objects within the scope of this Act as the applicants desire, and as the Lieutenant-Governor thinks fit to include in the letters patent, and may by the said letters patent name the first directors of the new company, and the letters patent may be to the new company by the name of the old company or by any other name. R.S.O. 1887, c. 157, s. 73.

LETTERS PATENT TO COMPANIES INCORPORATED BY SPECIAL ACT.

106. Where any company has been incorporated by a special Act for purposes or objects within the scope of this Act, then, in case a resolution authorizing an application by petition to the Lieutenant-Governor therefor is passed by a vote of not less than two-thirds in value of the shareholders present in person, or by proxy, at a general meeting of the company, duly called for considering the subject of such resolution, the Lieutenant-Governor in Council may, from time to time, direct the issue of letters patent to the company, embracing any or all of the following matters:

- (a) Extending the powers of the company to any objects within the scope of this Act, which the company may desire;
- (b) Limiting or increasing the amount which the company may borrow upon debentures, or otherwise;
- (c) Providing for the formation of a reserve fund;

- (d) Varying any provision contained in the special Act, so long as the alteration is not contrary to the provisions of this Act ;
- (e) Making provision for any other matter or thing in respect of which provision might have been made had the company been incorporated under this Act. 60 V., c. 28, s. 103.

107.—(1) Any company, incorporated otherwise than by or under the authority of an Act of the Legislature of Ontario, desiring to carry on any of its business which is within the scope of this Act, within the Province of Ontario, may, through the Provincial Secretary, petition the Lieutenant-Governor in Council for a license so to do, and the Lieutenant-Governor in Council may thereupon authorize such company to use, exercise and enjoy any powers, privileges and rights set forth in the said license.

Certain powers may be granted by license to extra-provincial companies.

(2) No such license shall be issued until such company has deposited in the office of the Provincial Secretary a true copy of the Act, charter or other instrument incorporating the company, verified in the manner which may be satisfactory to the Lieutenant-Governor in Council, together with a duly executed power of attorney, under its common seal, empowering some person therein named and residing in the Province of Ontario to act as its attorney and to sue and be sued, plead or be impleaded in any Court, and, generally, on behalf of such company and within the said Province, to accept service of process and to receive all lawful notices, and for the purposes aforesaid to do all acts and to execute all deeds and other instruments relating to the matters within the scope of the power of attorney, and such company may from time to time by a new or other power of attorney, executed and deposited as aforesaid, appoint another attorney within the Province for the purposes aforesaid to replace the attorney formerly appointed.

Copy of Act or other instrument of incorporation with power of attorney to be deposited with Provincial Secretary.

Power of Attorney.

(3) Such notice of the granting of the said license shall be given forthwith by the Provincial Secretary in *The Gazette* as the regulations made under section 11 of this Act hereof may prescribe.

Notice.

(4) The license, or any exemplification thereof under the Great Seal of Ontario, shall be sufficient evidence in any proceeding in any Court in this Province, of the due licensing of the company as aforesaid.

Evidence of having been licensed.

(5) A company licensed as aforesaid, shall on or before the 8th day of February in every year during the continuance of such license, make to the Provincial Secretary a statement, according to a form approved of by the Lieutenant-Governor in Council for the purpose, containing information similar to that required under section 79 of this Act, or so much hereof as may be prescribed in such form. 60 V., c. 28, s. 105 (1)-(5).

Return.

(6) If a company makes default in complying with the provisions of the preceding sub-section, the company shall incur a penalty of \$20 for every day during which the default continues, and every director, manager, or secretary of the company, who knowingly and wilfully authorizes or permits such default, shall incur the like penalty. 60 V., c. 28, s. 105 (6); 61 V., c. 19, s. 6.

Penalty for default.

(7) The Lieutenant-Governor in Council may, by an Order in Council, to be published by the Provincial Secretary in *The Gazette*, and otherwise as may be prescribed by the said regulations, suspend, or revoke and make null and void any license granted, under this section, to any company which refuses or fails to comply with any of the provisions of this section, and, notwithstanding such suspension or revocation, the rights of creditors of the company shall remain as at the time of such suspension or revocation. 60 V., c. 28, s. 105 (7).

Recovery of penalties.

108. The penalties provided by this Act shall be recoverable only by action at the suit of, or brought with the written consent of, the Attorney-General of the Province of Ontario. 61 V., c. 19, s. 8.

Remitting costs of actions for penalties.

109. In addition to the power given by chapter 108 of these Revised Statutes for the remission of penalties, the Lieutenant-Governor in Council may remit the costs of any action heretofore commenced for the recovery of penalties under this Act, and in case of such remission no costs shall be recoverable by the person bringing such action. 61 V., c. 19, s. 9.

SCHEDULE A. (Section 10.)

(To be executed in duplicate; one duplicate to be deposited in the Office of the Provincial Secretary.)

THE COMPANY OF (LIMITED).

MEMORANDUM OF AGREEMENT AND STOCK-BOOK.

WE the undersigned do hereby severally covenant and agree each with the other to become incorporated as a company under the provisions of *The Ontario Companies Act* under the name of the COMPANY OF (LIMITED), or such other name as the Lieutenant-Governor in Council may give to the Company, with a capital of dollars, divided into shares of dollars each.

AND WE DO hereby severally, and not one for the other, subscribe for and agree to take the respective amounts of the capital stock of the said Company set opposite our respective names as hereunder and hereafter written, and to become shareholders in such company to the said amounts.

In witness whereof we have signed.

Name of Subscriber.	Seal.	Amount of sub- scription.	Date and Place of Subscription.		Residence of Subscriber.	Name of Witness.
			Date.	Place.		
		\$				

SCHEDULE B.

(Section 10.)

PETITION.

TO HIS HONOUR
.....Etc., Etc., Etc.

Lieutenant-Governor of the Province of Ontario in Council:

THE PETITION of
.....
.....
.....
.....
.....
.....*Humbly sheweth as follows:—*

1. Your Petitioners are desirous of obtaining by letters patent, under the Great Seal, a charter, under the provisions of *The Ontario Companies Act* constituting Your Petitioners and such others as may become shareholders in the Company thereby created, a body corporate and politic under the name of THE.....COMPANY (LIMITED), or such other name as shall appear to Your Honour to be proper in the premises.

2. Your Petitioners have satisfied themselves and are assured that the corporate name under which incorporation is sought is not on any public ground objectionable, and that it is not that of any known company, incorporated or unincorporated, or of any partnership, or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive.*

3. Your Petitioners have satisfied themselves and are assured that no public or private interest will be prejudicially affected by the incorporation of Your Petitioners as aforesaid.†

4. Your Petitioners are of the full age of twenty-one years.

5. The object for which incorporation as aforesaid is sought by Your Petitioners is to
.....
.....

6. The undertaking of the Company will be carried on at (or from) , which is (or are) within the Province of Ontario.

7. The head office of the Company will be at.....

8. The amount of the capital stock of the Company is to be dollars.

9. The said stock is to be divided into shares of.....dollars each.

10. The said
.....
are to be the provisional directors of the Company.

* Add here when proper "except the name '.....' and Your Petitioners elsewhere shew that they have received the necessary consent in writing under section 10 of the said Act to the use of the name applied for."

† If otherwise, then the interests liable to be so affected shall be set out at length by affidavit to be briefly referred to here.

11. By subscribing therefor in a Memorandum of Agreement, duly executed, in duplicate, with a view to the incorporation of the Company, Your Petitioners have taken the amounts of stock set opposite their respective names, as follows :—

Petitioners.	Amount of Stock subscribed for.
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££
.....	££

NOTE.—If any payment, in cash or otherwise, has actually been made by any petitioner on his stock, particulars thereof may be set out here.

YOUR PETITIONERS therefore pray that Your Honour may be pleased, by Letters Patent under the Great Seal, to grant a Charter to Your Petitioners constituting Your Petitioners and such others as have or may become subscribers in the Memorandum of Agreement and stock-book of the Company thereby created, a body corporate and politic for the due carrying out of the undertaking aforesaid.

And Your Petitioners, as in duty bound, will ever pray.

.....
.....
.....
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.....
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.....
.....
.....
.....
.....
.....

Signatures of petitioners.

Signatures of witnesses.

INSURANCE COMPANIES AND
CONTRACTS.

R. S. O. 1897, CAP. 203.

An Act respecting Insurance.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Short title.

1. This Act may be cited as "*The Ontario Insurance Act*."
60. V., c. 36, s. 1.

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POWERS OF DIRECTORS—GENERAL PROVISIONS.

(*All Provincial Insurance Companies.*)

Application of
sections 99-
105.

98. Sections 99 to 105, inclusive, shall apply to all Provincial
corporations registered on the Insurance Company Register.
60 V., c. 36, s. 98.

.

The board
may pass by-
laws.

100.—(1) The board may from time to time make and pre-
scribe such by-laws as to them appear needful and proper
respecting the funds and property of the company, the duty of
the officers, agents and assistants thereof, the effectual carrying
out of the objects contemplated by this Act, the holding of the
annual meeting, and all such other matters as appertain to the
business of the company, and are not contrary to law, and may
from time to time alter and amend the said by-laws, except in
cases with regard to which it is provided that any such by-laws
shall not be repealed, or where the repeal would affect the
rights of others than the members of the company, in any of
which cases such by-law shall not be repealed.

When by-laws
are not repeal-
able.

(2) Every by-law of the board shall be duly entered in the
minute book, and unless and until amended or annulled by the
board, or by a general meeting of the members, shall be deemed
to be a by-law of the company.

(3) There shall be filed with the Insurance Registrar copies of all by-laws that may from time to time be passed by the company or the board. 60 V., c. 36, s. 100.

By-laws of board to bind company.

102.—(1) The board may issue debentures or promissory notes in favor of any person, firm, building society, banking or other company, for the loan of money, and may borrow money therefrom on such debentures or promissory notes for any term not exceeding twelve months, and on such conditions as they think proper, and may renew the same from time to time for any such term, the whole of the assets, including premium notes of the company, being held liable to pay the same at maturity, but no such debenture or promissory note shall be for a less sum than \$100.

Directors may issue debentures and promissory notes for loans.

Assets of the company to be liable for the same.

(2) All the debentures and promissory notes at any one time outstanding shall not exceed one-fourth of the amount remaining unpaid upon the same premium notes. 60 V., c. 36, s. 103.

Amount of debentures, etc., limited.

MUTUAL AND CASH-MUTUAL FIRE INSURANCE COMPANIES:
THEIR INTERNAL MANAGEMENT.

106. Sections 107 to 141, inclusive, shall apply only to mutual and cash-mutual fire insurance companies. 60 V., c. 36, s. 106.

Application of secs. 107-141.

Admission and withdrawal of members.

107. The company may insure on the premium note plan any property within the scope of the company's license, and the maker of the premium note shall as from the date of the acceptance of the risk by the company be a member of the company, and shall be entitled to the like rights, and be subject to the like liabilities as other members of the company. 60 V., c. 36, s. 107.

Power to insure.

Members.

108. In a cash-mutual company the premium note shall, subject to section 111, be liable for claims arising against the company generally. 60 V., c. 36, s. 108.

Liability on premium notes.

109. No member of the company shall be liable in respect of any loss or other claim or demand against the company, otherwise than upon and to the extent of the amount unpaid upon his premium note or undertaking. 60 V., c. 36, s. 109.

Liability of members.

123. No agent, or paid officer, or the banker of the company, or person in the employment of the company, other than the manager, shall be eligible to be elected as a director, or shall be allowed to interfere in the election of directors for the company. . . . 60 V., c. 36, s. 123.

Certain persons not eligible to be elected directors.

Premium Notes and Assessments. (Mutual and Cash-Mutual Fire Insurance Companies.)

Company may accept premium notes.

127.—(1) The company may accept the premium note or the undertaking of the assured for assurance, and may undertake contracts in consideration thereof, said notes or undertakings to be assessed for the losses, expenses and reserve of the company in the manner hereinafter provided.

Form of premium notes.

(2) Where the premium note or undertaking is made upon a sheet or page which contains other matter, the premium note or undertaking shall be so entitled in conspicuous type, and shall be separated from such other matter by a blank space of at least an inch wide carried across the sheet or page, and if such other matter requires, or is intended to receive the assent of the maker of the premium note or undertaking, such assent shall be evidenced by a signature wholly distinct from the signature to the premium note or undertaking, and any violation of this section shall render the premium note or undertaking absolutely null and void; but the notice required by section 138 of this Act to be embodied in or indorsed upon the premium note shall not be deemed to be "other matter" within the meaning of this sub-section. 60 V., c. 36, s. 127.

APPLICABLE TO ALL CONTRACTS OF INSURANCE.

Contract not to be invalidated by erroneous statement in application unless material.

144. . . .—(2) No contract of insurance made or renewed after the commencement of this Act shall contain, or have indorsed upon it, or be made subject to any term, condition, stipulation, warranty or proviso, providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the corporation, unless such term, condition, stipulation, warranty or proviso is limited to cases in which such statement is material to the contract, and no contract within the intent of section 2 of this Act, shall be avoided by reason of the inaccuracy of any such statement, unless it be material to the contract.

Materiality, how decided.

(3) The question of materiality in any contract of insurance whatsoever shall be a question of fact for the jury, or for the Court if there be no jury; and no admission, term, condition, stipulation, warranty or proviso to the contrary, contained in the application or proposal for insurance, or in the instrument of contract, or in any agreement or document relating thereto shall have any force or validity.

INSURANCE OF THE PERSON.

General provisions applicable to all Insurers.

147. Sections 148 to 165, inclusive, shall apply to insurance of the person within the meaning of clause 46 of section 2. Application of secs. 148 to 165.
60 V., c. 36, s. 147.

148.—(1) In any insurance of the person, where the money payable by way of premiums, dues or assessments (not being the initial premiums, dues or assessments), under any contract whatsoever, is unpaid, any of the persons hereinafter mentioned may within thirty days from and including the first day on which the money is due, by registered letter or otherwise, pay, deliver or tender to the company at its head office, or at its chief agency in Ontario, or to the company's collector or authorized agent, the sum in default. On payment, delivery or tender as aforesaid by the assured, or by any of the beneficiaries under the contract, the contract shall be deemed to have been *ipso facto* revived or renewed, and any stipulation or agreement to the contrary shall, as against the assured or his beneficiaries, be utterly void, the thirty days hereinbefore mentioned shall run concurrently with the period of grace or credit (if any) allowed by the insurer for the payment of a premium or of an instalment of premium, and nothing herein contained shall be deemed to extend the period of grace or credit beyond the total of thirty days. This sub-section shall not be deemed to extend the time allowed for the payment of contributions or assessments by section 165 of this Act. Days of grace for payment of premiums.

60 V., c. 36, s. 148.

149.—(1) Where the age of a person is material to any contract and such age is given erroneously in any statement or warranty made for the purposes of the contract, such contract shall not be avoided by reason only of the age being other than as stated or warranted, if it appears that such statement or warranty was made in good faith and without any intention to deceive, but the person entitled to recover on such contract shall not be entitled to recover more than an amount which bears the same ratio to the sum that such person would otherwise be entitled to recover as the premium proper to the stated age of such person bears to the premium proper to the actual age of such person, the said stated age and the actual age being both taken as at the date of the contract. Error in age not to avoid contract, but benefit to abate.

Provided that in no case shall the amount receivable exceed the amount stated or indicated in the contract. Proviso.

Provided, also, that where the application for and contract of insurance expressly limit the insurable age, and where the actual age of the applicant for insurance at the date of his Proviso.

application exceeds the age so limited, the contract shall, during the lifetime of the assured, and not later than five years from the date of the contract, be voidable at the discretion of the insurer within thirty days after the error in age comes to the knowledge of the insurer.

"Premiums."

(2) For the purposes of the next preceding sub-section the word "premium" shall mean the net annual premium as shown in or deduced from the H. M. Tables of the Institute of Actuaries of Great Britain, the rate of interest being taken at $4\frac{1}{2}$ per cent. per annum.

Fractional part of a year.

(3) If the error in age includes a fractional part of a year exceeding a half year, such fractional part shall be computed as a whole year, but if the fractional part does not exceed a half year it shall be wholly disregarded in the computation.

Where age is by agreement taken as greater than known age.

(4) When by the terms and for the purposes of the contract, the age of the person in respect of whose age the contract is taken to be greater than the actual age of such person, the number of years added to such age shall, for the purposes of the calculation provided for by this section, be added to the true age of such person.

Error may be adjusted between insurer and assured at any time before maturity of contract.

(5) Where any error is discovered in respect of any contract of insurance, or of the premium or premiums paid or to be paid upon such contract, nothing herein contained shall be construed in any way to prevent at any time before the maturity of the contract an adjustment between the insurer and the assured of the amount or amounts payable in respect of any insurance effected, or of the premium or premiums paid or to be paid. 60 V., c. 36, s. 149.

Insurable interest necessary to support contract.

150.—(1) In any insurance of the person, except an annuity on life, it shall be necessary for the validity of the contract that the beneficiary under the contract (being other than the assured, or the parent, or *bona fide* donee, grantee or assignee of the assured, or a person entitled under the will of the assured, or by operation of law), have had at the date of the contract a pecuniary interest in the duration of the life or other subject insured, provided that any otherwise lawful contract of annuity upon life shall not require for its validity that the annuitant has or at any time had an insurable interest in the life of the nominee.

Minors of fifteen years and upwards competent to effect insurance on their own lives and give discharge.

(6) In respect of insurance heretofore or hereafter, by any person not of the full age of twenty-one years but of the age of fifteen years or upwards effected upon his own life, for either his own benefit or for the benefit of his father, mother, brother or sister, the assured shall not by reason only of his minority, be deemed incompetent to contract for such insurance, or for the surrender of such insurance, or to give a valid

discharge for any benefit accruing, or for money payable under the contract. 60 V., c. 36, s. 150.

158. . . . (3) Where all the beneficiaries, whether pre-ferred or ordinary, are of full age, they and the assured may surrender the contract of insurance, or assign the same, either absolutely or by way of security. Power of as-
sured and
adults to deal
with policy.

60 V., c. 36, s. 153.

CONTRACTS OF FIRE INSURANCE.

General provisions. (All Fire Insurance Companies.)

166. Every company licensed and registered for the trans-action of fire insurance may, within the limits prescribed by the license and registry, insure or reinsure dwelling houses, stores, shops and other buildings, household furniture, merchan-dise, machinery, live stock, farm produce, and other commo-dities, against damage or loss by fire or lightning, whether the same happens by accident or any other means, except that of design on the part of the assured, or by the invasion of an enemy, or by insurrection. 60 V., c. 36, s. 166. Property
which may be
insured.

167.—(1) Contracts of fire insurance shall not exceed the term of three years; and the insurance of mercantile and manufacturing risks shall, if on the cash system, be for terms not exceeding one year. Terms of con-
tracts.

(a) Provided that contracts of mutual fire insurance by any mutual or cash-mutual fire insurance company may be for any term not exceeding four years. Proviso.

(2) Any contract that may be made for one year or any shorter period on the premium note system, or for three years or any shorter period on the cash system may be renewed at the discretion of the board of directors by renewal receipt instead of policy, on the insured paying the required premium, or in the case of a contract on the premium note system by giving a new premium note or undertaking; and any cash payments or premium notes for renewal shall be made at the end of the year, or other period for which the premium note was granted, otherwise the policy shall be null and void. 60 V., c. 36, s. 167; c. 3, s. 3. Renewing
contracts.

Statutory Conditions and Provisions Relating Thereto.

(Binding all fire insurance contracts whatsoever in Ontario.)

168. The conditions set forth in this section shall, as against the insurer, be deemed to be part of every contract, (whether sealed, written or oral) of fire insurance hereafter entered into Statutory con-
ditions to be
part of every
policy unless
varied.

or renewed or otherwise in force in Ontario with respect to any property therein or in transit therefrom or thereto, and shall be printed on every such policy with the heading *Statutory Conditions*, and no stipulation to the contrary, or providing for any variation, addition or omission, shall be binding on the assured unless evidenced in the manner prescribed by sections 169 and 170. 60 V., c. 36, s. 168.

Rev. Stat.
1887, c. 167, s.
114 (17), to
apply to con-
tracts in force
at passing of
60 V., c. 36.

Provided that statutory condition 17 given in section 114 of *The Ontario Insurance Act*, being chapter 167 of The Revised Statutes of Ontario, 1887, shall, notwithstanding anything herein contained, apply to contracts of insurance in force prior to the 13th day of April, 1897. 60 V., c. 36, s. 198 (3.)

Statutory Conditions.

Misrepresen-
tation or
omission.

1. If any person or persons insures his or their buildings or goods, and causes the same to be described otherwise than as they really are, to the prejudice of the company, or misrepresents or omits to communicate any circumstance which is material to be made known to the company, in order to enable it to judge of the risk it undertakes, such insurance shall be of no force in respect to the property in regard to which the misrepresentation or omission is made.

Policy sent to
be deemed as
applied for
unless vari-
ance pointed
out.

2. After application for insurance it shall be deemed that any policy sent to the assured is intended to be in accordance with the terms of the application, unless the company points out, in writing, the particulars wherein the policy differs from the application.

When a
change as to
risk shall
avoid a policy.
Notice of
change, etc.

3. Any change material to the risk, and within the control or knowledge of the assured, shall avoid the policy as to the part affected thereby, unless the change is promptly notified in writing to the company or its local agent; and the company when so notified may return the premium for the unexpired period and cancel the policy, or may demand in writing an additional premium, which the assured shall, if he desires the continuance of the policy, forthwith pay to the company; and if he neglects to make such payment forthwith after receiving such demand, the policy shall be no longer in force.

Change of
property.

4. If the property insured is assigned without a written permission indorsed hereon by an agent of the company duly authorized for such purpose, the policy shall thereby become void; but this condition does not apply to change of title by succession, or by the operation of the law, or by reason of death.

Partial dam-
age—salvage.

5. Where property insured is only partially damaged, no abandonment of the same will be allowed unless by the consent of the company or its agent; and in case of removal of property to escape conflagration, the company will contribute

to the loss and expenses attending such act of salvage proportionately to the respective interests of the company or companies and the assured.

6. Money, books of account, securities for money, and evidences of debt or title are not insured. Money, securities, etc.

7. Plate, plate glass, plated ware, jewelry, medals, paintings, sculptures, curiosities, scientific and musical instruments, bullion, works of art, articles of vertu, frescoes, clocks, watches, trinkets and mirrors, are not insured unless mentioned in the policy. Plate, paintings, clocks, etc.

8. The company is not liable for loss if there is any prior insurance in any other company, unless the company's assent thereto appears herein or is indorsed hereon, nor if any subsequent insurance is effected by any other company, unless and until the company assents thereto, or unless the company does not dissent in writing within two weeks after receiving written notice of the intention or desire to effect the subsequent insurance, or does not dissent in writing after that time and before the subsequent or further insurance is effected. Prior or subsequent insurance.

9. In the event of any other insurance on the property herein described, having been assented to as aforesaid, then this company shall, if such other insurance remains in force, on the happening of any loss or damage, only be liable for the payment of a ratable proportion of such loss or damage without reference to the dates of the different policies. Case of assent to other insurance.

10. The company is not liable for the losses following, that is to say : Liability in case of non-ownership.

(a) For the loss of property owned by any other party than the assured, unless the interest of the assured is stated in or upon the policy ;

(b) For loss caused by invasion, insurrection, riot, civil commotion, military or usurped power ; Riot, invasion, etc.

(c) Where the insurance is upon buildings or their contents—for loss caused by the want of good and substantial brick or stone chimneys ; or by ashes or embers being deposited, with the knowledge and consent of the assured, in wooden vessels ; or by stoves or stovepipes being, to the knowledge of the assured, in an unsafe condition or improperly secured ; Chimneys, ashes, stoves.

(d) For loss or damage to goods destroyed or damaged while undergoing any process in or by which the application of fire heat is necessary ; Goods to which fire heat is being applied.

Repairs by
carpenters,
etc.

- (e) For loss or damage occurring to buildings or to their contents while the buildings are being repaired by carpenters, joiners, plasterers or other workmen, and in consequence thereof, unless permission to execute such repairs has been previously granted in writing, signed by a duly authorized agent of the company. But in dwelling houses fifteen days are allowed in each year for incidental repairs, without such permission.

Gunpowder,
coal oil, etc.

- (f) For loss or damage occurring while petroleum or rock-earth or coal oil, camphene, gasoline, burning fluid, benzine, naphtha or any liquid products thereof, or any of their constituent parts (refined coal oil for lighting purposes only, not exceeding five gallons in quantity, or lubricating oil not being crude petroleum nor oil of less specific gravity than required by law for illuminating purposes, not exceeding five gallons in quantity, excepted), nor more than twenty-five pounds weight of gunpowder is or are stored or kept in the building insured, or containing the property insured, unless permission is given in writing by the company.

Explosion.
Lightning.

11. The company will make good loss caused by the explosion of coal gas in a building not forming part of gas works, and loss by fire caused by any other explosion or by lightning.

Proof of loss
when payable
to other than
assured.

12. Proof of loss must be made by the assured, although the loss be payable to a third party.

Directions to
be observed
on making
claim.

13. Any person entitled to make a claim under this policy is to observe the following directions:

- (a) He is forthwith after loss to give notice in writing to the company ;
(b) He is to deliver, as soon after as practicable, as particular an account of the loss as the nature of the case permits ;
(c) He is also to furnish therewith a statutory declaration declaring:

That the said account is just and true ;

When and how the fire originated, so far as the declarant knows or believes ;

That the fire was not caused through his wilful act or neglect, procurement, means or contrivance ;

The amount of other insurances ;

All liens, and incumbrances on the subject of insurance ;

The place where the property insured, if movable, was deposited at the time of the fire ;

(d) He is in support of his claims, if required, and if practicable, to produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers ; to furnish copies of the written portion of all policies ; to separate as far as reasonably may be the damaged from the undamaged goods, and to exhibit for examination all that remains of the property which was covered by the policy ;

(e) He is to produce, if required, a certificate under the hand of a magistrate, notary public, commissioner for taking affidavits, or municipal clerk, residing in the vicinity in which the fire happened, and not concerned in the loss or related to the assured or sufferers, stating that he has examined the circumstances attending the fire, loss or damage alleged, that he is acquainted with the character and circumstances of the assured or claimant, and that he verily believes that the assured has by misfortune and without fraud or evil practice sustained loss and damage on the subject assured to the amount certified.

14. The above proofs of loss may be made by the agent of the assured, in case of the absence or inability of the assured himself to make the same, such absence or inability being satisfactorily accounted for.

Proof of loss may be made by agent.

15. Any fraud or false statement in a statutory declaration, in relation to any of the above particulars, shall vitiate the claim.

False statement or fraud vitiates claim.

16. If any difference arises as to the value of the property insured, of the property saved, or of amount of the loss, such value and amount and the proportion thereof (if any) to be paid by the company shall, whether the right to recover on the policy is disputed or not, and independently of all other questions be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the party assured and the other by the company, and a third to be appointed by the persons so chosen, or on their failing to agree, then by the County Judge of the county wherein the loss has happened ; and such reference shall be subject to the provisions of *The Arbitration Act* ; and the award shall, if the company is in other respects liable, be conclusive as to the amount of the loss and proportion to be paid by the company ; where the full amount of the claim is awarded the costs shall follow the event ; and in other cases all questions of costs shall be in the discretion of the arbitrators.

Arbitration in case of differences.

Rev. Stat. c. 62.

Loss when payable.

17. The loss shall not be payable until sixty days after the completion of the proofs of loss, unless otherwise provided for by the contract of insurance.

Company may replace, instead of paying.

18. The company, instead of making payment, may repair, rebuild or replace, within a reasonable time, the property damaged or lost, giving notice of their intention within fifteen days after receipt of the proofs herein required.

Insurance terminable on notice.

19. The insurance may be terminated by the company by giving notice to that effect, and, if on the cash plan, by tendering therewith a ratable proportion of the premium for the unexpired term, calculated from the termination of the notice: in the case of personal service of the notice, five days' notice, excluding Sunday, shall be given. Notice may be given by any company having an agency in Ontario by registered letter addressed to the assured at his last post-office address notified to the company, or where no address notified, then to the post-office of the agency from which the application was received; and where such notice is by letter, then seven days from the arrival at any post-office in Ontario shall be deemed good notice: And the policy shall cease after such tender and notice aforesaid, and the expiration of the five or seven days, as the case may be.

(a) The insurance, if for cash, may also be terminated by the assured by giving written notice to that effect to the company or its authorized agent, in which case the company may retain the customary short rate for the time the insurance has been in force, and shall repay to the assured the balance of the premium paid.

Waiver of condition.

20. No condition of the policy, either in whole or in part, shall be deemed to have been waived by the company, unless the waiver is clearly expressed in writing, signed by an agent of the company.

Officers assuming to agree in writing to be deemed agents.

21. An officer or agent of the company, who assumes on behalf of the company to enter into any written agreement relating to any matter connected with the insurance, shall be deemed *prima facie* to be the agent of the company for the purpose.

Actions to be brought within one year.

22. Every action or proceeding against the company for the recovery of any claim under or by virtue of this policy, shall be absolutely barred, unless commenced within the term of one year next after the loss or damage occurs.

What constitutes written notice.

23. Any written notice to a company for any purpose of the statutory conditions, where the mode thereof is not expressly provided, may be by letter delivered at the head office of the company in Ontario, or by registered post letter addressed to the company, its manager or agent, at such head office, or by such written notice given in any other manner to an authorized agent of the company. 60 V., c. 36, s. 168.

169. If the insurer desires to vary the said conditions, or to omit any of them, or to add new conditions, there shall be added on the instrument of contract containing the printed statutory conditions words to the following effect, printed in conspicuous type and in ink of a different colour.

Variations
how indicated.

Variations in Conditions.

“This policy is issued on the above Statutory Conditions with the following variations and additions:

“These variations (*or as the case may be*) are, by virtue of the Ontario Statute in that behalf, in force so far as, by the Court or Judge before whom a question is tried relating thereto, they shall be held to be just and reasonable to be exacted by the company.”

60 V., c. 36, s. 169.

170. No such variation, addition or omission, shall, unless the same is distinctly indicated and set forth in the manner or to the effect aforesaid, be legal and binding on the assured; and no question shall be considered as to whether any such variation, addition or omission is, under the circumstances, just and reasonable, but on the contrary, the policy shall, as against the assurer, be subject to the statutory conditions only, unless the variations, additions or omissions are distinctly indicated and set forth in the manner or to the effect aforesaid.

Variations not
binding unless
clearly
indicated.

Provided it shall be optional with the insurers to pay or allow claims which are void under the 3rd, the 4th, or the 8th Statutory Condition, in case the insurers think fit to waive the objections mentioned in the said conditions. 60 V., c. 36, s. 170.

Optional with
insurers to pay
claims void
under certain
statutory
conditions.

171. In case a policy is entered into or renewed containing or including any condition other than or different from the conditions set forth in section 168 of this Act, if the said condition so contained or included is held, by the Court or Judge, before whom a question relating thereto is tried, to be not just and reasonable, such condition shall be null and void. 60 V., c. 36, s. 171.

Policy con-
taining other
than statutory
conditions.

172.—(1) Where, by reason of necessity, accident or mistake, the conditions of any contract of fire insurance on property in this Province as to the proof to be given to the insurance company, after the occurrence of a fire have not been strictly complied with; or where after a statement or proof of loss has been given in good faith by or on behalf of the assured, in pursuance of any proviso or condition of such contract, the company, through its agent or otherwise, objects to the loss upon other grounds than for imperfect compliance with such conditions or does not within a reasonable time after receiving such statement or proof notify the assured in writing that such statement or proof is objected to, and what are the

If due proof
of loss not
given through
accident, etc.,
or objection
not made
thereto, or
made on other
grounds than
non-compli-
ance with
conditions;

or, if full
compliance
adjudged
inequitable.

In above
cases liability
and policy
not vacated.

Allowance for
costs occa-
sioned by
default of
plaintiff.

particulars in which the same is alleged to be defective, and so from time to time; or where, for any other reason, the Court or Judge before whom a question relating to such insurance is tried or inquired into, considers it inequitable that the insurance should be deemed void or forfeited by reason of imperfect compliance with such conditions—no objection to the sufficiency of such statement or proof or amended or supplemental statement or proof (as the case may be) shall, in any of such cases be allowed as a discharge of the liability of the company on such contract of insurance wherever entered into.

(2) If in any action or proceeding upon a contract of fire insurance, the assured, being plaintiff in such action or proceeding, has in the opinion of the Court or Judge, wilfully neglected or unreasonably refused to furnish necessary information respecting the property for which the insurance money is claimed, and if as a consequence of such neglect or refusal the defendant company has been at expense in obtaining information or evidence, the Court or Judge may, in disposing of costs, take into consideration the expense so incurred by the defendant company. 60 V., c. 36, s. 172.

Decisions
under Act
subject to
ordinary right
of appeal.

173. A decision of a Court or Judge under this Act shall be subject to review or appeal to the same extent as a decision by such Court or Judge in other cases. 60 V., c. 36, s. 173.

LOAN CORPORATIONS.

R. S. O. 1897, CAP. 205.

An Act respecting Building Societies and other Loan Corporations.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Loan Corporations Act.*" Short title.
60 V., c. 38, s. 1.

POWER TO LEND ON AND PURCHASE AND SELL CERTAIN SECURITIES.

17.—(1) A registered loan corporation may from time to time lend and advance money by way of loan or otherwise for such periods as it deems expedient on the security of real estate, or of the public securities of Canada, or of any of the Provinces thereof, or on the security of terminating debentures of any municipal or public school corporation, or of the terminating debentures of any society or company incorporated under the Revised Statute respecting Building Societies; or of terminating debentures or debenture stock of any society or company in which under the law of the Province trustees may invest trust funds; or may out of the funds appropriated to terminating shares (if any), lend on the security of the terminating shares of the corporation itself:

May lend on certain securities.

R. S. O. 1887, c. 169.

Provided that in the case of corporations heretofore so authorized it shall (except as provided in section 19) be lawful to invest in and lend upon land or upon securities other than in this section mentioned.

Proviso.

(2) The corporation may do all acts that are necessary for advancing such sums of money, and for receiving and obtaining repayment thereof, and for compelling the payment of all interest accruing from such sums so advanced, and the observance and fulfilment of any conditions annexed to such advance,

May do acts necessary to such loans and may exercise remedies.

and for enforcing the forfeiture of any term or property consequent on the non-fulfilment of such conditions, or of conditions entered into for delay of payment; and may take personal security as collateral for any advance made.

May hold certain estates and interests in land; and may dispose of same.

(3) The corporation may hold such real estate as being mortgaged or hypothecated to it, is acquired by it for the protection of its investments, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of the same; and may acquire, by purchase or otherwise, any mortgage or security of any kind whatsoever upon which it is authorized to lend or advance money, and re-sell the same, as it deems advisable.

May purchase and sell certain securities.

(4) The corporation may give receipts, acquittances and discharges, either absolutely and wholly, or partially, and may grant or take such deeds, assignments or other instruments as are necessary for carrying any such holding, purchase, exchange or re-sale into effect; and the grantee or assignee in any such instrument shall stand in the place of, and be entitled to, and have all the same rights, powers and remedies, and shall be subject to the same obligations and liabilities, under, upon, or in respect to such instrument as the grantor or assignor would have been entitled to or would have been subject to if the grant or assignment had not been made.

May give discharges and execute all necessary instruments.

Rights of grantee or assignee.

Power to hold real estate.

(5) The corporation may hold absolutely to its own use and benefit such real estate as is necessary for the transaction of its business, not exceeding in yearly value the sum of \$20,000, in Ontario, and, subject to the laws of the other Provinces of Canada, the sum of \$20,000 in each of the said Provinces; also such real estate as being mortgaged or hypothecated to it, is acquired by it for the protection of its investments, and such real estate as is conveyed to it in satisfaction of debts previously contracted in the course of its business; and may from time to time sell, mortgage, lease, exchange or otherwise dispose of the same; but the corporation (not being a loaning land corporation standing registered under this Act) shall, subject as above, sell any real estate acquired in satisfaction of any debt within twelve years after it has been so acquired, otherwise it shall be forfeited to Her Majesty, for the uses of the Province; but no such forfeiture shall take effect or be enforced until the expiration of at least six calendar months after notice in writing to the said corporation of the intention of Her Majesty to claim such forfeiture.

May form reserve fund and invest same in foregoing securities.

(6) It shall be lawful for any such corporation to constitute and maintain a reserve fund out of the earnings or other income of the corporation not required for the present liabilities of the corporation, and to invest the same in any of the securities authorized for the purposes of loans by this section.

General powers of corporation for purposes of this section

(7) And for every purpose in this section specified, and for any other purpose in this Act mentioned or referred to, the corporation may lay out, and apply the capital and property,

for the time being, of the corporation or any part thereof, or any of the moneys authorized to be hereafter raised or received by the corporation in addition to its capital for the time being, and may authorize and exercise all acts and powers whatsoever, in the opinion of the directors of the corporation requisite or expedient to be done or exercised in relation thereto. 60 V., c. 38, s. 17. and of this Act.

19.—(1) No payments received by the corporation for or on account of any permanent shares or stock whatsoever, shall be deemed to be a debt of the corporation; and no sum due to any holder of such shares or stock, in his character of holder or member, by way of dividends, profits or otherwise, shall be deemed a debt of the corporation, payable to such holder or member in a case of competition between himself and any other creditor not being a holder of such shares or a member of the corporation; but any sum so due may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves. Permanent shares or stock not a debt of the corporation; loans or advances upon such shares or stock prohibited.

(2) The corporation may lend upon its own paid up permanent stock to an amount not exceeding in the aggregate of all such loans 10 per centum of the corporation's paid up permanent stock; but no such loan shall exceed $66\frac{2}{3}$ per centum of the market price then actually offered for the stock, and no loan corporation whatsoever shall, after the passing of this Act, except as in this section provided, make any loan or advance upon the security of any permanent share or shares, or permanent stock of the corporation, whether with or without collateral security. Limitation as to loans on stock of corporation.

Provided, however, that any loan corporation may pass a by-law prohibiting absolutely the loaning to shareholders upon the security of their stock, or (subject to the limitations contained in this sub-section) a by-law limiting the aggregate amount which may be loaned on such stock, and it shall not be lawful for any corporation to repeal either of such by-laws until the liabilities of the corporation are discharged. 60 V., c. 38, s. 19. Proviso.

BORROWING POWERS.

26. Except in so far as their borrowing powers may be deemed to be enlarged by sections 30 and 31 hereof, nothing contained in this Act shall be construed to enlarge, impair or diminish the duly authorized borrowing powers of any corporation lawfully doing business in Ontario on the tenth day of February, 1897, and standing registered under this Act. Saving clause as to corporations in present authorized operation.

Provided that any corporation may with the assent of the Lieutenant-Governor in Council (which assent shall be evidenced by letters patent in that behalf) elect to renounce its

existing borrowing powers and accept those conferred by this Act, but such alteration of borrowing powers shall not operate to prejudice or affect any existing rights of creditors or any obligations entered into by such corporation prior to such assent.

Application of
secs. 28-39.

27. Sections 28 to 39, inclusive, shall apply to all loan corporations incorporated by or having their head offices in Ontario, and also to all loan corporations whatsoever borrowing in Ontario by way of taking deposits, or undertaking guarantees, or issuing debentures, debenture stock or like obligations. 60 V., c. 38, s. 26.

Limitations of
the borrowing
powers of
certain
corporations.

28.—(1) Unless and until the corporation has a paid-up, unimpaired, permanent and non-withdrawable capital of at least \$100,000, or (being constituted with joint stock capital) has a subscribed permanent stock of at least \$300,000, on which at least \$100,000 has been actually paid and is unimpaired, no corporation established after the 31st day of December, 1877, shall receive deposits, or borrow, receive, take or retain otherwise than in respect of stock and shares of the corporation any sum of money from any person or persons; and the paid in and subscribed capital of the corporation shall be liable for the amount so borrowed, received or taken by the corporation. 60 V., c. 38, s. 27.

Borrowing
powers of
other
corporations.

(2) Where a corporation standing registered under this Act has a paid-up, permanent, non-withdrawable and unimpaired capital of not less than \$100,000 or (being constituted with joint stock capital) has a subscribed permanent stock of at least \$300,000 on which at least \$100,000 has been paid and is unimpaired, the directors, pursuant to powers conferred in that behalf by any by-laws or rules of the corporation passed at any general meeting having due notice of such proposed by-laws or rules, may from time to time, borrow money on behalf of the corporation at such lawful rates of interest, and upon such terms as they from time to time think proper; and the directors may for that purpose, subject as hereinafter provided, receive money on loan or on deposit (other than and in addition to money received in respect of stock and shares of the corporation); and may for that purpose issue debenture stock, and terminable debentures, bonds and other obligations, as well as execute mortgages under the seal of the corporation, for sums of not less than \$100 each; or may assign, transfer or deposit by way of equitable mortgage or otherwise, for the sum so borrowed, any of the documents of title, deeds, muniments, securities or property of the corporation, and either with or without power of sale or other special provisions, as the directors deem expedient. 60 V., c. 38, s. 28.

BORROWING BY WAY OF DEPOSITS, DEBENTURES, OR
GUARANTEE.

29.—(1) The corporation shall not, without the express consent of the shareholders given at a general meeting having due notice of the proposal, receive money on deposit, otherwise than in respect of shares or stock of the corporation; and when money is otherwise received on deposit, the same shall, for the purposes of this Act, be deemed to be money borrowed by the corporation; and with lawful interest thereon as agreed, shall be repayable by the corporation either at a time certain, or upon notice not being less than thirty days (unless notice, or such notice, is waived), as may have been agreed upon.

Receiving money on deposit.

(2) The amount to be received by any corporation entitled as hereinbefore provided to receive deposits shall not at any time exceed the aggregate amount of the then actually paid up and unimpaired permanent capital, and of its other cash actually in hand or deposited by it in any chartered bank or banks in Canada. 60 V., c. 38, s. 29.

Limitation of amount receivable on deposit.

30.—(1) If the corporation issue debentures, the debentures shall be for such sums, not being less than \$100 and in such currency as the board of directors may deem advisable, and shall be payable not less than one year, nor more than ten years, from the issue thereof at such place as may be therein mentioned.

Amount and form of debentures.

(2) If the corporation borrows money solely on debentures or other securities, and by guarantee and not by way of deposit, under section 29, the aggregate amount of the sums so borrowed shall not at any time exceed four times the amount of its paid-up and unimpaired capital, or at the option of the corporation the amount of its subscribed, fixed and permanent capital, upon which not less than twenty per cent. has been paid.

Where corporation borrows on securities but not on deposits.

(3) In event of any corporation incorporated before the 4th day of May, 1891, availing itself of the provisions of this Act, or any Act of the Province passed after the 3rd day of May, 1891, to enlarge its powers of borrowing money by debentures, nothing herein contained shall be construed as affecting or in any wise impairing the rights of the holders of debentures issued by such corporation.

Enlarged borrowing powers not to prejudice certain debenture holders.

(4) If the corporation borrows money both by way of debentures or other securities, or by guarantee and also by way of deposit, such corporation shall, in respect of deposits received, comply with section 29, and furthermore the aggregate amount of its total borrowing shall not at any time exceed the amount of the principal moneys remaining unpaid on securities then held by the corporation, nor shall it exceed thrice the amount of the then actually paid-up and unimpaired

Where corporation borrows both on securities and on deposits.

permanent capital of the corporation; but the amount of cash then actually in the hands of the corporation, or standing deposited by it in any chartered bank, or both, shall be deducted from the aggregate amount of the liabilities which the corporation has then incurred, as above mentioned, in calculating the aggregate amount for the purposes of this sub-section. 60 V., c. 38, s. 30.

Liabilities of borrowing corporation not to exceed mortgages.

31. The total liabilities of the borrowing corporation shall not at any time exceed the amount of principal remaining unpaid on the mortgages then held by the corporation, but in estimating the said liabilities, the amount of cash actually in the hands of the corporation, or deposited in any chartered bank of Canada or of Great Britain shall be deducted therefrom. 60 V., c. 38, s. 31.

Deduction to be made in estimating the paid-up capital.

32. All loans or advances by a corporation to its shareholders upon the security of their permanent stock shall be deducted from the amount of paid up capital upon which the corporation is authorized to borrow. 60 V., c. 38, s. 32.

BORROWING BY DEBENTURE STOCK.

Issuing debenture stock.

33. Subject to sections 29, 30, 31 and 32, the directors of any registered loan corporation, such as is mentioned in sub-section 2 of section 28, may, from time to time, with the consent of a majority of the shareholders, present in person or represented by proxy, at a general meeting called for such purpose, and having due notice of the proposal, issue debenture stock, which shall be treated and considered as a part of the regular debenture debt, authorized by section 30 of this Act, in such amounts and manner, on such terms, and bearing such rate of interest, and in such currency as the directors from time to time think proper, but subject to the limitations in sections 29, 30, 31 and 32 provided, so that the amount received as money deposits and borrowed on the security of debentures, mortgages, bonds, or other instruments or debenture stock, shall not in the whole exceed the aggregate amount fixed by sections 29, 30, 31 and 32, as the authorized limit of the borrowing powers of the corporation. 60 V., c. 38, s. 33.

NOMINATION BY INVESTOR OR DEPOSITOR; INTESTACY; MISTAKEN PAYMENTS; TRANSMISSION OF INTEREST; CASE WHERE RIGHTS ARE IN DOUBT; EXECUTION CREDITORS.

Member or investor in loan corporation may nominate a successor.

54. A member of, or investor in, or depositor with any loan corporation having a sum of money in the funds thereof not exceeding \$300, may from time to time nominate any person or persons (such person or persons being within the Statute of Distributions) as successor or successors at death of such member, investor or depositor; provided that such nomination is made in writing, and duly deposited with the secretary or manager

of the corporation, and upon receiving an affidavit of the death of the nominator, the directors shall substitute the name of the nominee on its books in the place of the nominator, or may immediately pay to the nominee the amount due to the deceased member or depositor. 60 V., c. 38, s. 54.

55. If any member, investor in, or depositor with the corporation having in the funds thereof a sum of money not exceeding \$300, dies intestate and without making such nomination, then the amount due shall, without letters of administration taken out, be paid to the person who appears to the directors to be entitled under the Statute of Distributions to receive the same, upon the directors receiving an affidavit of death and intestacy, and that the person so claiming is entitled as aforesaid. 60 V., c. 38, s. 55.

Disposition of funds of intestate members.

56. Where the directors after the decease of any member or depositor, have paid such sum of money to the person who at the time appeared to be entitled to the effects of the deceased, under the belief that he died intestate without having appointed any nominee, the payment shall be valid and effectual with respect to any demand, from any other person as next of kin or as the lawful representative of the deceased member or depositor, against the funds of the corporation; but, nevertheless, the next of kin or representative shall have his lawful remedy for the amount of such payment as aforesaid against the person who has received the same. 60 V., c. 38, s. 56.

Mistaken payments by the corporation when valid.

60. In case of a sale of property mortgaged to the corporation, any surplus not exceeding \$300, over and above the amount due to the corporation and costs, derived from sale under power of sale of any property mortgaged to the corporation, where the mortgagor or his assigns has or have died intestate, shall be personal property, whether the sale took place before or after the death of the mortgagor or person entitled to the equity of redemption. 60 V., c. 38, s. 60.

Disposition of proceeds of sale under mortgages.

61. Where the amount standing to the credit of any depositor or shareholder exceeds \$300, nothing in section 60 shall prejudice the right of any execution creditor in respect of any right or lien he may have in respect of such excess to the amount of the execution in the hands of the sheriff.

Rights of execution creditors.

Provided, however, that to the extent of \$300, the amount standing to the credit of any depositor or shareholder in a corporation registered under this Act, shall not while in the hands of the corporation or while in course of transmission from the corporation, be liable to demand, seizure or detention under legal process as against the said depositor or shareholder, or his nominee, assignee or representative, or as against any person to whom the corporation is . . . authorized to pay said sum. 60 V., c. 38, s. 61.

Proviso.

WINDING UP COMPANIES.

R. S. O. 1897, CAP. 222.

An Act respecting the winding up of Joint Stock Companies.

SHORT TITLE, s. 1.
 APPLICATION OF ACT, s. 2.
 INTERPRETATION, s. 3.
 WHEN COMPANY MAY BE WOUND UP,
 ss. 4-6.
 REGISTRATION OF WINDING UP ORDER
 OR RESOLUTION, s. 7.
 CONSEQUENCES OF COMMENCING TO
 WIND UP, s. 8.
 LIQUIDATORS, ss. 9-13, 19.
 LIABILITY OF CONTRIBUTORIES, ss.
 14-18.
 EXPENSES, ss. 20, 21.
 MEETINGS, s. 22.
 APPLICATIONS TO COURT, ss. 23-30.
 Matters of practice, ss. 31-39.
 DISSOLUTION OF COMPANIES, ss. 40-44.

RULES, s. 45.
 APPLICATION OF SECS. 47-56, s. 46.
 RESOLUTIONS FOR DISTRIBUTION OF
 ASSETS OR REDUCTION OF CAPI-
 TAL, ss. 47-50.
 Liability of officers for payments
 made under resolution, s. 51.
 Liability of shareholders for money
 received, s. 52.
 Restriction as to insurance com-
 panies, s. 53.
 Resolution for reduction of shares
 not to affect amount remaining
 unpaid thereon, s. 54.
 Notice of reduction of shares, ss.
 55, 56.

HER MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of Ontario,
 enacts as follows :—

Short title.

1. This Act may be cited as "*The Joint Stock Companies Winding-up Act*." R. S. O. 1887, c. 183, s. 1.

Application of
Act.

Rev. Stat.
c. 203.

2. This Act shall apply to all incorporated companies or
 associations (including insurance corporations as defined by
 section 2 of *The Ontario Insurance Act*, but subject to the
 provisions of that Act), incorporated by the Legislature of this
 Province, or under the authority of any Act of this Province,
 and to all companies and associations which were incorporated
 by the Parliament of the Province of Upper Canada, or of the
 Province of Canada, or under the authority of any Act of
 the Province of Canada, whose incorporation and the affairs

thereof, in the particulars hereinafter mentioned, are subject to the legislative authority of this Province. R. S. O. 1887, c. 183, s. 2 ; 60 V., c. 3, s. 3.

INTERPRETATION.

3. Where the words following occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :

1. "Court" shall mean any County Court ; and any Judge of a County Court may at any time exercise all the powers conferred by this Act upon the Court ; "Court."
Power of
County Court
Judge.

2. "Contributory" shall mean every person liable to contribute to the assets of a company under this Act, in the event of the same being wound up ; and shall, also, in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory ; "Contribu-
tory."

3. If a contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees shall be liable in due course of administration to contribute to the assets of the company in discharge of the liability of such deceased contributory, and such personal representatives, heirs, and devisees shall be deemed to be contributories accordingly ; Case of death
of contribu-
tory.

4. "Extraordinary resolution" shall mean a resolution passed by a majority of not less than three-fourths of such members of the company, for the time being entitled to vote, as may be present in person, or by proxy (in cases where by the Act or charter or instrument of incorporation or the regulations of the company proxies are allowed), at any general meeting of which notice specifying the intention to propose such resolution has been duly given ; "Extraordi-
nary resolu-
tion."

5. "Special resolution" shall mean a resolution passed in the manner necessary for an extraordinary resolution, where the resolution after having been so passed as aforesaid has been confirmed by a majority of such members (entitled according to the Act, charter or instrument of incorporation or the regulations of the company to vote) as may be present, in person or by proxy, at a subsequent general meeting of which notice has been duly given, and held at an interval of not less than fourteen days, or more than one month from the date of the meeting at which the resolution was first passed. R. S. O. 1887, c. 183, s. 3. "Special reso-
lution."

6. Those persons only who for the time being are entitled to vote at general meetings of the company for the purposes of this Act shall be deemed to be members of the company. 53 V., c. 49, s. 4. "Members of
the company."

WHEN COMPANIES MAY BE WOUND UP.

4. A company may be wound up under this Act :

When companies may be wound up voluntarily.

1. Where the period, if any, fixed for the duration of the company by the Act, charter or instrument of incorporation has expired; or where the event (if any) has occurred, upon the occurrence of which it is provided by the Act or charter or instrument of incorporation that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up;

On special resolution.

2. Where the company has passed a special resolution (as hereinbefore defined) requiring the company to be wound up;

On extraordinary resolution.

3. Where the company (though it may be solvent as respects creditors) has passed an extraordinary resolution (as hereinbefore defined) to the effect that it has been proved to their satisfaction that the company cannot by reason of its liabilities continue its business, and that it is advisable to wind up the same. R. S. O. 1887, c. 183, s. 4.

When by order of the Court.

5. Where no such resolution has been passed as mentioned in the next preceding section, the Court may, on the application of a contributory, make an order for winding up, in case the Court is of opinion that it is just and equitable that the company should be wound up. R. S. O. 1887, c. 183, s. 5.

Commencement of winding up.

6. A winding up shall be deemed to commence at the time of the passing of the resolution authorizing the winding up, or of making the order directing the winding up. R. S. O. 1887, c. 183, s. 6.

REGISTRATION.

Registration of winding up order.

7. A copy of the resolution or order for winding up, certified by the liquidator, may be registered in the registry office of any registry division wherein the company has any real estate; the resolution or order shall be accompanied by a description of the real estate belonging to the company in the registry division, and certified by the liquidator to be a correct description; and the registrar shall register the order and description upon payment to him of a fee of \$1. R. S. O. 1887, c. 183, s. 7.

CONSEQUENCES OF COMMENCING TO WIND UP.

Consequences of commencement of winding up.

8. The following consequences shall ensue upon the commencement of the winding up of a company under the authority of this Act :

Extent to which company to exist after commencement of winding up.

1. The company shall, from the date of the commencement of the winding up, cease to carry on its business, except in so far as may be required for the beneficial winding up thereof; and any transfers of shares, except transfers made to or with

the sanction of the liquidators, or any alteration in the status of the members of the company, after the commencement of the winding up, shall be void, but the corporate state and all the corporate powers of the company shall, notwithstanding it may be otherwise provided by the Act, charter or instrument of incorporation, continue until the affairs of the company are wound up.

Transfer of shares.

2. The property of the company shall be applied in satisfaction of its liabilities, and subject thereto, and to the charges incurred in winding up its affairs, shall (unless it is otherwise provided by the Act, charter, or instrument of incorporation) be distributed amongst the members according to their rights and interests in the company.

Property of company.

3. Liquidators shall be appointed for the purpose of winding up the affairs of the company and distributing the property.

Liquidators.

4. The company, in general meeting, shall appoint such persons or person as the company thinks fit to be liquidators or a liquidator, and may fix the remuneration to be paid to them or to him, and they shall give such security as the contributories or the Court may determine.

Appointment of liquidators.

Remuneration

Security.

5. If one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him

One liquidator.

6. Upon the appointment of liquidators, all the powers of the directors shall cease, except in so far as the company in general meeting, or the liquidators, may sanction the continuance of such powers.

Cesser of powers of directors.

7. Where several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of the appointment, or at a subsequent meeting, or, in default of such determination, by any number not less than two. R. S. O. 1887, c. 183, s. 8 (1-7).

Powers of several liquidators.

8. The members of the company may at any meeting appoint one or more inspector or inspectors, to superintend and direct the proceedings of the liquidator in the management and winding up of the estate; and in case of an inspector being appointed, all the powers of the liquidator shall be exercised subject to the advice and direction of the inspectors; and the members of the company may also at any subsequent meeting held for that purpose, revoke any such appointment; and upon such revocation, or in case of death, resignation or absence from the Province of an inspector, may appoint another in his stead; and such inspector may be paid such remuneration as the members of the company may determine; and where anything is allowed or directed to be done by the inspectors, it may or shall be done by the sole inspector, if only one has been appointed.

Appointment of inspectors.

Revocations.

Remuneration.

Directions as to disposal of property of the company by liquidation.

9. The members of the company may, at any meeting, pass any resolution or order, directing the liquidator how to dispose of the property, real or personal, of the company; and in default of their doing so, the liquidator shall be subject to the directions, orders and instructions which he from time to time receives from the inspectors, if any, with regard to the mode, terms and conditions on which he may dispose of the whole or any part of the property of the company. R. S. O. 1887, c. 183, s. 8 (8-9); 53 V., c. 49, s. 1.

GENERAL POWERS OF LIQUIDATORS.

Description and general power of liquidator.

9. The liquidator may be described in all proceedings by the style of "A.B., the liquidator of" (*the particular company in respect of which he is appointed*), and shall have power to do the following things:

Bring actions.

1. To bring or defend any action, or other legal proceeding in the name, and on behalf of the company;

Carry on business.

2. To carry on the business of the company so far as may be necessary for the beneficial winding up of the same;

Sell property.

3. To sell the real and personal property of the company by public auction or private contract, according to the ordinary mode in which such sales are made, with power to transfer the whole property to any person or company, or to sell the same in parcels, and on such terms as shall seem most advantageous; but no sale of the assets *en bloc* shall be made without the previous sanction of the contributories given at a meeting called for that purpose; R. S. O. 1887, c. 183, s. 9 (1-3).

Sale of debts.

4. And in case, after having acted with due diligence in the collection of the debts, the liquidator finds that there remain debts due, the attempt to collect which would be more onerous than beneficial to the estate, he shall report the same to the members of the company or inspectors (if any); and with their sanction, he may sell the same by public auction after such advertisement thereof as they may order; and pending such advertisements, the liquidator shall keep a list of the debts to be sold, open to inspection at his office, and shall also give free access to all documents and vouchers explanatory of such debts; but all debts amounting to more than \$100 shall be sold separately, except as herein otherwise provided; R. S. O. 1887, c. 183, s. 9 (4); 53 V., c. 49, s. 1.

Draw, etc., bills and notes.

5. To draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the company; and to raise upon the security of the assets of the company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making or indorsing of such bill of exchange or promissory note on behalf of the company, shall have the same effect, with respect to the liability of the company, as if such bill or note had been drawn, accepted, made

or indorsed by or on behalf of the company in the course of carrying on the business thereof ;

6. To take out, if necessary, in his official name, letters of administration to any deceased contributory ; and to do in his official name any other act which may be necessary for obtaining payment of any money due from a contributory or from his estate, and which act cannot be conveniently done in the name of the company ; and in all cases where he takes out letters of administration, or otherwise uses his official name, for obtaining payment of any money due from a contributory, such money shall, for the purpose of enabling him to take out such letters or recover such money, be deemed to be due to the liquidator himself ;

Take out letters of administration to deceased contributories and collect debts.

7. To execute in the name of the company all deeds, receipts and other documents ;

Execute deeds.

8. And to do and exercise all other acts and things that may be necessary for the winding up of the affairs of the company and the distribution of its assets ; and for such purposes to use when necessary the company's seal. R. S. O. 1887, c. 183, s. 9 (5-8).

Other things.

Company's seal.

10.—(1) The liquidator may fix a certain day or certain days on or within which creditors of the company and others having claims thereon are to send in their claims.

Time for creditors to send in claims may be fixed.

(2) Where a liquidator has given such or the like notices of the said day, as in administration proceedings, would be given by the High Court, for creditors and others to send in to an executor or administrator their claims against the estate of a testator or intestate, the liquidator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the company, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which the liquidator has then notice ; and the liquidator shall not be liable for the assets, or any part thereof, so distributed to any person of whose claim such liquidator had not notice at the time of distributing the said assets, or a part thereof, as the case may be ; but nothing in this Act contained, shall prejudice the right of any creditor or claimant to follow assets into the hands of the person who may have received the same. R. S. O. 1887, c. 183, s. 10.

Liquidators may distribute assets after expiration of time fixed.

[*As to Priority of Wages or Salary, see Cap. 156, sec. 3.*]

11. The liquidators may, with the sanction of an extraordinary resolution of the company, make such compromise or other arrangement as the liquidators deem expedient, with any creditors, or persons claiming to be creditors, or persons having or alleging to have any claim, present or future, certain

Arrangements may be authorized with creditors.

or contingent, ascertained or sounding only in damages, against the company, or whereby the company may be rendered liable. R. S. O. 1887, c. 183, s. 11.

Power to compromise with debtors and contributories.

12. The liquidators may, with the sanction of an extraordinary resolution of the company, compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and any contributory or other debtor or person apprehending liability to the company, and all questions in anyway relating to or affecting the assets of the company or the winding up of the company, upon the receipt of such sums, payable at such times, and generally upon such terms, as may be agreed upon; with power for the liquidators to take any security for the discharge of such debts or liabilities, and to give a complete discharge in respect of all or any such calls, debts or liabilities. R. S. O. 1887, c. 183, s. 12.

Take security.

Power to accept shares, etc., as a consideration for sale of property to another company.

13.—(1) Where a company is proposed to be or is in the course of being wound up, and the whole or a portion of its business or property is proposed to be transferred or sold to another company, the liquidators of the first mentioned company, with the sanction of a special resolution of the company by whom they were appointed conferring either a general authority on the liquidators, or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, shares or other like interest in such other company, for the purpose of distribution amongst the members of the company which is being wound up, or may, in lieu of receiving cash, shares, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing company.

Sale or arrangement by liquidators binding unless a member objects.

(2) Any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the members of the company which is being wound up, subject to the proviso, that if any member of the company which is being wound up, who has not voted in favour of the special resolution passed by the company of which he is a member, at either of the meetings held for passing the same, expresses his dissent from any such special resolution, in writing, addressed to the liquidators or one of them, and left at the head office of the company not later than seven days after the date of the meeting at which such special resolution was passed, such dissentient member may require the liquidators to do one of the following things as the liquidators may prefer, that is to say, either (a) to abstain from carrying such resolution into effect, or (b) to purchase the interest held by such dissentient member, at a price to be determined in manner hereinafter mentioned, such purchase-money to be paid before the company is dissolved, and

Proceedings on objection.

to be raised by the liquidators in such manner as may be determined by special resolution.

(3) No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to or concurrently with any resolution for winding up the company, or for appointing liquidators.

Special resolution not invalid because prior to resolution to wind up.

(4) The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement; but if the parties dispute about the same such dispute shall be settled by arbitration.

Price payable to objecting member.

(5) For the purposes of the arbitration the liquidator shall appoint one arbitrator, and the dissentient member shall appoint another, and the two arbitrators thus chosen (or in case they disagree, the County Judge) shall appoint a third arbitrator.

Mode of determining price.

Arbitration.

(6) The arbitrators thus chosen or any two of them, or the arbitrator of one party and an arbitrator appointed by the County Judge (in case of the refusal or neglect of either party to appoint an arbitrator) shall finally determine the matter in dispute.

Majority to determine disputes.

(7) In case of the disagreement of two arbitrators, where two only are acting, they may appoint an umpire, whose award shall be conclusive. R. S. O. 1887, c. 183, s. 13.

Umpire.

LIABILITY OF CONTRIBUTORIES.

14.—(1) As soon as may be after the commencement of the winding up of a company, the liquidator shall settle a list of contributories.

Liquidators to settle list of contributories.

(2) Every shareholder or member of the company or his representative is liable to contribute the amount unpaid on his shares of the capital, or on his liability to the company or to its members or creditors, as the case may be, under the Act, charter, or instrument of incorporation of the company; and the amount which he is liable to contribute shall be deemed assets of the company, and to be a debt due to the company payable as may be directed or appointed under this Act.

Shareholders' liability to contribute.

(3) Where a shareholder has transferred his shares under circumstances which do not by law free him from liability in respect thereof, or where he is by law liable to the company or its contributories or any of them, to an amount beyond the amount unpaid on his shares, he shall be deemed a member of the company for the purposes of this Act, and shall be liable to contribute as aforesaid to the extent of his liabilities to the company or the contributories independently of this Act, and the amount which he is so liable to contribute shall be deemed assets and a debt as aforesaid.

Case of transfer of shares by shareholder.

Contributories liable in a representative character to be distinguished in list.

When real representatives need not be inserted.

List to be evidence of liability.

Settlement of list by the Court.

Procedure on settling list by the Court.

Certificate of result of settlement.

Provision for administration if personal representative fails to pay.

Calls on contributories.

(4) The list of contributories shall distinguish between persons who are contributories as being representatives of or liable for others.

(5) It shall not be necessary where the personal representative of a deceased contributory is placed on the list to add the heirs or devisees of such contributory; nevertheless such heirs or devisees may be added at any time afterwards.

(6) Any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories. R. S. O. 1887, c. 183, s. 14.

15.—(1) The list of contributories may be settled by the Court, in which case the liquidator shall make out and leave at the chambers of the Judge a list of the contributories of the company; and such list shall be verified by the affidavit of the liquidator, and shall, so far as is practicable, state the respective addresses of, and the number of shares or extent of interest to be attributed to each such contributory, and distinguish the several classes of contributories; and the list may from time to time, by leave of the Judge, be varied or added to by the liquidator.

(2) Upon the list of contributories being left at the chambers of the Judge, the liquidator shall obtain an appointment for the Judge to settle the same, and shall give notice in writing of the appointment to every person included in the list, and stating in what character, and for what number of shares, or interest, such person is included in the list; and in case any variation in or addition to the list is at any time made by the liquidator, a similar notice in writing shall be given to every person to whom the variation or addition applies. All such notices shall be served four clear days before the day appointed to settle such list, or such variation or addition.

(3) The result of the settlement of the list of contributories shall be stated in a certificate by the clerk of the Court; and certificates may be made from time to time for the purpose of stating the result of the settlement down to any particular time, or to any particular person, or stating any variation of the list. R. S. O. 1887, c. 183, s. 15.

16. If a person made a contributory as personal representative of a deceased contributory makes default in paying any sum to be paid by him, proceedings may be taken for administering the estate of the deceased contributory, and for compelling payment thereof of the money due. R. S. O. 1887, c. 183, s. 16.

17. The liquidators may, at any time and before they have ascertained the sufficiency of the assets of the company, call

on all or any of the contributories, for the time being settled on the list of contributories, to pay, to the extent of their liability, all or any sums the liquidators deem necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made, may partly or wholly fail to pay their respective portions of the same. R. S. O. 1887, c. 183, s. 17.

18. Where a person's name is on the list of contributories or is liable to be placed thereon, he shall be subject in respect of his liability, and on the application of the liquidator, to arrest and imprisonment, like any other debtor; and he shall for that purpose be deemed a debtor to the company, and a debtor to the liquidator, and his arrest may be by an order of the County Court Judge, whether the amount of his liability exceeds or not the ordinary jurisdiction of the said Court; and his being placed on the list of contributories under this Act shall be deemed a judgment, and the liquidator shall be deemed a creditor, within the meaning of *The Act respecting Arrest and Imprisonment for Debt*; and the said persons shall respectively have the same remedies, and the County Court and Judges and the officers of justice shall in such cases have the same powers and duties (as nearly as may be), as in corresponding cases under the said Act. R. S. O. 1887, c. 183, s. 18.

Contributories liable to arrest like debtors under Rev. Stat. c. 80.

LIQUIDATOR'S DUTIES.

19.—(1) No liquidator shall employ any counsel, or solicitor, without the consent of the inspectors, or of the members of the company. R. S. O. 1887, c. 183, s. 19 (1); 53 V., c. 49, s. 1.

Employment of counsel.

(2) No liquidator or inspector shall purchase, directly or indirectly, any part of the stock in trade, debts or assets of any description of the estate.

Liquidators or Inspectors not to purchase assets of company.

(3) The liquidator shall deposit at interest in some chartered bank to be indicated by the inspectors or by the Court, all sums of money which he may have in his hands, belonging to the company, whenever such sums amount to \$100.

Deposit in bank by liquidators.

(4) Such deposit shall not be made in the name of the liquidator generally, on pain of dismissal; but a separate deposit account shall be kept for the company of the moneys belonging to the company, in the name of the liquidator as such, and of the inspectors (if any); and such moneys shall be withdrawn only on the joint cheque of the liquidator and one of the inspectors, if there be any. R. S. O. 1887, c. 183, s. 19 (2-4).

Separate deposit account to be kept; withdrawal from account.

(5) At every meeting of the members of the company, the liquidators shall produce a bank pass-book, shewing the amount

Liquidator to produce bank pass book at meetings, etc.

of deposits made for the company, the dates at which the deposits were made, the amounts withdrawn and dates of such withdrawal; of which production mention shall be made in the minutes of the meeting, and the absence of such mention shall be *prima facie* evidence that the pass-book was not produced at the meetings. R. S. O. 1887, c. 183, s. 19 (5); 53 V., c. 49, s. 1.

Liquidator to produce bank pass book when ordered.

(6) The liquidator shall also produce the pass-book whenever so ordered by the Court at the request of the inspectors or a member of the company, and on his refusal to do so, he shall be treated as being in contempt of Court. R. S. O. 1887, c. 183, s. 19 (6); 53 V., c. 49, s. 2.

Liquidator and inspector to be subject to summary jurisdiction of Court.

(7) Every liquidator or inspector shall be subject to the summary jurisdiction of the Court in the same manner and to the same extent as the ordinary officers of the Court are subject to its jurisdiction; and the performance of his duties may be compelled, and all remedies sought or demanded for enforcing any claim for a debt, privilege, mortgage, lien or right of property upon, in, or to any effects or property in the hands, possession or custody of a liquidator, may be obtained by an order of the Court on summary petition, and not by any action, attachment, seizure or other proceeding of any kind whatever; and obedience by the liquidator to such order may be enforced by the Court under the penalty of imprisonment, as for contempt of Court or disobedience thereto; or he may be removed in the discretion of the Court. R. S. O. 1887, c. 183, s. 19 (7).

Obedience how enforced.

EXPENSES.

Costs and expenses.

20. All costs, charges and expenses properly incurred in the voluntary winding up of a company, including the remuneration of the liquidators, shall be payable out of the assets of the company in priority to all other claims. R. S. O. 1887, c. 183, s. 20.

Remuneration of liquidators in case no other fixed.

21. In case of there being no agreement or provision fixing the remuneration of a liquidator, he shall be entitled to a commission on the net proceeds of the estate of the company of every kind, after deducting expenses and disbursements, such commission to be of five per cent. on the amount realized, not exceeding \$1,000, the further sum of two and a half per cent. on the amount realized in excess of \$1,000, and not exceeding \$5,000, and a further sum of one and a quarter per cent. on the amount realized in excess of \$5,000; which said commission shall be in lieu of all fees and charges for his services. R. S. O. 1887, c. 183, s. 21.

MEETINGS.

Filling vacancies in office of liquidator.

22.—(1) If a vacancy in the office of liquidators appointed by the company, occurs by death, resignation or otherwise, a general meeting for the purpose of filling up the vacancy may

be convened by the continuing liquidators, if any, or if none, then by any member of the company. R. S. O. 1887, c. 183, s. 22 (1); 53 V., c. 49, s. 3.

(2) The liquidators may from time to time, during the continuance of the winding up, summon general meetings of the company for the purpose of obtaining the sanction of the company by special resolution or extraordinary resolution, or for any other purposes they think fit.

General meetings during winding up.

(3) In the event of the winding up continuing for more than one year, the liquidators shall summon a general meeting of the company at the end of the first year, and of each succeeding year from the commencement of the winding up, or as soon thereafter as may be convenient; and shall lay before the meeting an account, shewing their acts and dealings, and the manner in which the winding up has been conducted during the preceding year. R. S. O. 1887, c. 183, s. 22 (2-3).

Annual meetings.

(4) The liquidator shall also call meetings of the members of the company whenever required in writing so to do, by the inspector or five members of the company, or by the Court, and he shall state succinctly in the notice calling any meeting the purpose thereof.

Liquidators to call meetings of members of company.

(5) The members of the company may, from time to time, at any meeting, determine where subsequent meetings shall be held; and in the absence of such a resolution all meetings of the members of the company shall be held at the office of the liquidator or of the company, unless otherwise ordered by the Court. R. S. O. 1887, c. 183, s. 22 (4-5); 53 V., c. 49, s. 1.

Subsequent meetings.

Where meetings to be held.

(6) Notice of any meeting shall for the purposes of this Act be deemed to be duly given, and the meeting to be duly held, whenever the notice is given and meeting held in manner prescribed by the Act, charter or instrument of incorporation or by the regulations of the company, or by the Court; or

One mode of giving notice of meeting.

(7) Notice of the meeting may be given by publication thereof for at least two weeks in the *Ontario Gazette*, or by such other or additional notice as the Court, or the inspector or the company may direct, and by also, except where the Court otherwise directs, addressing notices of the meeting to the contributories within the Province, and to the representatives, within the Province, of contributories who reside out of the Province; and the notices shall be posted at least ten days before the day on which the meeting is to take place, the postage being prepaid by the liquidator.

Another mode of notice of meeting.

(8) No member of the company shall vote at any meeting unless present personally, or represented by some person having a written authority (to be filed with the liquidator) to act on his behalf at the meeting, or generally; and when a poll is taken reference shall be had to the number of votes to

Voting to be in person or by proxy.

Scale of votes.

which each member is entitled by the Act, charter or instrument of incorporation or the regulations of the company. R. S. O. 1887, c. 183, s. 22 (6-8); 53 V., c. 49, s. 2.

ASSISTANCE OF THE COURT.

Application to the court.

23.—(1) The liquidators or any member of the company may apply to the Court to determine any question arising in the matter of the winding up; or to exercise all or any of the powers following; and the Court, if satisfied that the determination of the question, or the required exercise of power, will be just and beneficial, may accede wholly or partially to the application, on such terms and subject to such conditions as the Court thinks fit; or it may make such other order on the application as the Court thinks just. R. S. O. 1887, c. 183, s. 23 (1); 53 V., c. 49, s. 3.

Stay of action against company before order to wind up.

(2) The Court, at any time after the presentation of a petition for winding up a company and before making an order for winding up the company, may restrain further proceedings in any action or proceeding against the company (other than under the Insolvent Acts in force at the time, or any other authority over which this Legislature has no jurisdiction) in and upon such terms as the Court thinks fit.

Stay of action after commencement of winding up.

(3) The Court may make an order that no action or other proceeding shall be proceeded with or commenced against the company except with the leave of the Court, and subject to such terms as the Court may impose; but this sub-section shall not apply to proceedings under any Act of the Parliament of Canada under its jurisdiction in matters of bankruptcy and insolvency or otherwise; a copy of such order shall forthwith be advertised as the Court may direct.

Settlement of list of contributories.

(4) The Court may settle the list of contributories. R. S. O. 1887, c. 183, s. 23 (2-4).

Meetings of members of company may be ordered.

Chairman,

(5) The Court may direct meetings of the members of the company to be summoned, held and conducted in such manner as the Court thinks fit, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court. R. S. O. 1887, c. 183, s. 23 (5); 53 V., c. 49, s. 1.

Order for delivery by contributories and others of property, etc.

(6) The Court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker, or agent or officer of the company, to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the liquidator, any sum or balance, books, papers, estate, or effects which happen to be in his hands for the time being, and to which the company is *prima facie* entitled.

(7) The Court may make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in manner in the order mentioned, of moneys due from him or from the estate of the person whom he represents, to the company, exclusive of moneys which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this Act.

Order for payment by contributories.

(8) The Court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into any bank appointed for this purpose in any general order made under this Act, or in default of such bank into a bank named in the order or into a branch of such bank, to the account of the official liquidator instead of to the official liquidator, and the order may be enforced in the same manner as if it had directed payment to the official liquidator.

Power to order payment into a bank to account of official liquidator.

(9) An order made by the Court in pursuance of this Act upon any contributor shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the moneys, if any, thereby appearing to be due, or ordered to be paid, are due; and all other pertinent matters stated in the order are to be taken to be truly stated, as against all persons, and in all proceedings whatsoever, with the exception of proceedings taken against the real estate of any deceased contributory, in which case the order shall only be *prima facie* evidence for the purpose of charging his real estate, unless his heirs or devisees were on the list of contributories at the time the order was made.

Order on contributory to be conclusive evidence, except as to real estate of deceased.

(10) The Court may make such order for the inspection by the creditors and contributories of the company of its books and papers as the Court thinks just; and any books and papers in the possession of the company may be inspected in conformity with the order of the Court, but not further or otherwise.

Inspection of books.

(11) The Court may, at any time after the commencement of the winding up of the company, summon to appear before the Court or liquidator any officer of the company, or any other person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the company; and in case of refusal to appear or answer the questions submitted, he may be committed and punished by the Judge as for a contempt.

Examination of persons before Court or liquidator.

(12) The Court may require any such officer or person to produce any books, papers, deeds, writings, or other documents in his custody or power relating to the company.

Production of books, etc.

Penalty on person summoned not attending.

(13) If any person so summoned, after being tendered the fees to which a witness is entitled in the County Courts, refuses to come before the Court or liquidator at the time appointed, having no lawful impediment, the Court may cause such person to be apprehended and brought before the Court or liquidator for examination.

Mode of examination.

(14) The Court or liquidator may examine, upon oath, any person appearing or brought before them in the manner aforesaid, concerning the affairs, dealings, estate or effects of the company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Subpoenas.

(15) In any proceeding under this Act, the Court may order a writ of *subpœna ad testificandum*, or of *subpœna duces tecum* to issue, commanding the attendance as a witness of any person within the limits of Ontario.

Liens.

(16) Where any person claims a lien on papers, deeds, or writings or documents produced by him, such production shall be without prejudice to the lien; and the Court shall have jurisdiction in the winding up to determine all questions relating to such lien.

Power of Court to assess damages against delinquent directors, etc.

(17) Where in the course of winding up a company under this Act, it appears that any past or present director, manager, official or other liquidator, or any officer of the company has misapplied, or retained in his own hands, or become liable or accountable for, moneys of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of a liquidator, or of any contributory of the company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager, or other officer, and compel him to repay the moneys so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust, as the Court thinks just. R. S. O. 1887, c. 183, s. 23 (6-17).

Proceedings by contributories, at their own expense and for their own benefit only.

24. If at any time a member of the company desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the company, and the liquidator, under the authority of the members of the company or of the inspectors, refuses or neglects to take such proceeding, after being duly required so to do, the member of the company shall have the right to obtain an order of the Court authorizing him to take such proceeding in the name of the liquidator or company, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator, as the Court may

prescribe; and thereupon any benefit derived from such proceeding shall belong exclusively to the member of the company instituting the same, for his benefit and that of any other member of the company who may have joined him in causing the institution of such proceeding; but if, before such order is granted, the liquidator signifies to the Court his readiness to institute such proceeding for the benefit of the company, an order shall be made prescribing the time within which he shall do so and in that case the advantage derived from such proceeding shall appertain to the company. R. S. O. 1887, c. 183, s. 24; 53 V., c. 49, ss. 1, 2.

25.—(1) If a vacancy in the office of liquidator appointed by the company occurs by death, resignation or otherwise the company in general meeting may fill up such vacancy. R. S. O. 1887, c. 183, s. 25 (1). Filling vacancies in office of liquidator.

(2) If from any cause there is no liquidator acting, either provisionally or otherwise, the Court may on the application of a member of the company, appoint a liquidator or liquidators. R. S. O. 1887, c. 183, s. 25 (2); 53 V., c. 49, s. 2. Appointment by Court.

(3) The Court may also on due cause shown, remove a liquidator, and appoint another liquidator. Removal of liquidator.

(4) When there is no liquidator the estate shall be under the control of the Court until the appointment of a new liquidator. R. S. O. 1887, c. 183, s. 25 (3-4). The case of no liquidator.

26.—(1) Any one or more members of the company whose claims in the aggregate exceed \$500, who may be dissatisfied with the resolutions adopted or orders made by the members of the company or the inspectors, or with any action of the liquidator for the disposal of the property of the company, or any part thereof, or for postponing the disposal of the same, or with reference to any matter connected with the management or winding up of the estate, may, within four clear days after the meeting of the members of the company in case the subject of dissatisfaction is a resolution or order of the members of the company, or within four clear days after becoming aware or having notice of the resolution of the inspectors or action of the liquidator where such resolution or action is the subject of dissatisfaction, give to the liquidator notice that he or they will apply to the Court, on the day and at the hour fixed by such notice (and not being later than four clear days after such notice has been given), or as soon thereafter as the parties may be heard before the Court, to rescind such resolutions or orders. Rescinding of resolution, etc., by the Court.

(2) The Court, after hearing the inspectors, the liquidators and members of the company present at the time and place so fixed, may approve, rescind or modify the said resolutions or orders. R. S. O. 1887, c. 183, s. 26 (1-2); 53 V., c. 49, s. 1. Confirmation or variation of resolutions, etc.

Costs.

(3) In case of the application being refused the party applying shall pay all costs occasioned thereby, and in other cases the costs and expenses shall be in the discretion of the Court. R. S. O. 1887, c. 183, s. 26 (3).

Appeals.

27.—(1) Any party who is dissatisfied with any order or decision of the Court in any proceeding under this Act, may appeal therefrom to the Court of Appeal, or to any one of the Judges of the said Court; but any appeal to a single Judge may, in his discretion, be referred, on a special case to be settled, to the full Court, and on such terms in the meantime as he may think necessary and just.

Security for damages and costs.

(2) No such appeal shall be entertained unless the appellant has, within eight days from the rendering of such final order or judgment, taken proceedings on the said appeal, nor unless within the said time he has made a deposit or given security, to the satisfaction of a Judge, that he will duly prosecute the said appeal and pay such damages and costs as may be awarded to the respondent.

Dismissal of appeal.

(3) If the party appellant does not proceed with his appeal, as the case may be, according to the law or the rules of practice, the Court, on the application of the respondent, may dismiss the appeal, and condemn the appellant to pay the respondent the costs by him incurred.

Judgment final.

(4) The judgment of the Court of Appeal shall be final. R. S. O. 1887, c. 183, s. 27.

Powers of Court to be in addition to other powers.

28. Any powers by this Act conferred on the Court shall be deemed to be in addition to any other power, of instituting proceedings against any contributory, or against any debtor of the company for the recovery of any call or other sums due from such contributory, or against any debtor of the company, for the recovery of any call or other sum due from such contributory or debtor, or his estate, and such proceedings may be instituted accordingly. R. S. O. 1887, c. 183, s. 28.

Enforcing of orders.

29. All orders made by the Court may be enforced in the same manner as orders of such Court made in any action pending therein, or as orders of the Court under the Insolvent Acts in force at the time may be enforced; and for the purposes of this Act, the County Courts and the Judges thereof shall in addition to their ordinary powers, have the same power of enforcing any orders made by them as the High Court has in relation to matters within the jurisdiction of that Court; and for the last-mentioned purposes the jurisdiction of the County Court Judge shall be deemed to be co-extensive in local limits with the jurisdiction of the High Court. R. S. O. 1887, c. 183, s. 29.

Powers of County Courts.

30. The various County Courts of the Province, and the Judges of the said Courts respectively shall be auxiliary to one another for the purposes of this Act; and the winding up of a company, or any matter or proceeding relating thereto, may be transferred from one County Court to another with the concurrence, or by the order or orders, of the two Courts, or by an order of a Judge of the Court of Appeal. R. S. O. 1887, c. 183, s. 30.

County Courts to be auxiliary.

Transfer from one Court to another.

MATTERS OF PRACTICE.

31. Where an order made by one Court is required to be enforced by another Court, an office copy of the order so made certified by the Clerk of the Court which made the same, and under the seal of such Court, shall be produced to the proper officer of the Court required to enforce the same, and the production of such copy shall be sufficient evidence of the order having been made; and thereupon such last mentioned Court shall take such steps in the matter as may be requisite for enforcing such order in the same manner as if it were the order of the Court enforcing the same. R. S. O. 1887, c. 183, s. 31.

Enforcement of order of one Court by another.

32.—(1) Any application to the Court for winding up of a company under this Act shall be by petition; and the petition may be presented by the company, or by any contributory or contributories of the company.

Petition on winding up.

(2) Upon hearing the petition the Court may dismiss the same, with or without costs, or may adjourn the hearing conditionally or unconditionally, and may make an interim order, or any other order that it deems just. R. S. O. 1887, c. 183, s. 32.

Course of Court on hearing of petition.

33. The Court at any time after an order has been made for winding up a company, may, upon the application by motion of any contributory, and upon proof to the satisfaction of the Court that all proceedings in relation to the winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court deems fit. R. S. O. 1887, c. 183, s. 33.

Stay of proceedings.

34. The rules of procedure for the time being as to amendments of pleadings and proceedings in the County Court shall as far as practicable, apply to all pleadings and proceedings under this Act; and any Court or liquidator before whom such proceedings are being carried on shall have full power and authority to apply the appropriate rules as to amendments to the proceedings so pending before him; and no pleading or proceeding shall be void by reason of any irregularity or default which can or may be amended or disregarded under the rules and practice of the Court. R. S. O. 1887, c. 183, s. 34.

Rules of procedure in ordinary cases, etc., to apply.

Amendments.

Language of proceedings, etc.

35. In every petition, application, motion, or other pleading or proceeding under this Act, the parties may state the facts upon which they rely, in plain and concise language; and to the interpretation thereof, the rules of construction applicable to such language in the ordinary transactions of life shall apply. R. S. O. 1887, c. 183, s. 35.

Books, etc., to be *prima facie* evidence.

36. All books, accounts, and documents of the company and of the liquidator, shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded. R. S. O. 1887, c. 183, s. 36.

Service of subpoenas, etc.

37. All rules, writs of subpoena, orders and warrants issued by any Court in any matter or proceeding under this Act, may be validly served in any part of Ontario upon the party affected or to be affected thereby, and the service of them may be validly made in such manner as is now prescribed for similar services, and the person charged with such service shall make his return thereof under oath. R. S. O. 1887, c. 183, s. 37.

Length of notice of proceedings. Service of notice.

38. Except where otherwise provided, four clear juridical days' notice of any petition, motion, order or rule shall be sufficient; and service of such notice shall be made in such manner as a similar service in an action. R. S. O. 1887, c. 183, s. 38.

Affidavits, before whom sworn.

39.—(1) Any affidavit, affirmation or declaration required to be sworn or made under the provisions or for the purposes of this Act, may be sworn or made in Ontario, before the liquidator, or before any liquidator, Judge, notary public, commissioner for taking affidavits, or Justice of the Peace; and out of Ontario, before any Judge of a Court of Record, any commissioner for taking affidavits to be used in any Court in Canada, any notary public, the chief municipal officer for any town or city, any British consul or vice-consul, or any person authorized by or under any Statute of the Dominion or of this Province to take affidavits.

Courts, etc., to take judicial notice of seals, signatures, etc.

(2) All Courts, Judges, Justices, commissioners and persons acting judicially, shall take judicial notice of the seal, or stamp or signature (as the case may be) of such Court, Judge, notary public, commissioner, justice, chief municipal officer, consul, vice-consul, liquidator or other person, attached, appended or subscribed to such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Act. R. S. O. 1887, c. 183, s. 39.

DISSOLUTION OF COMPANY.

Account of winding up to be made by liquidator to a general meeting.

40.—(1) As soon as the affairs of the company are fully wound up, the liquidators shall make up an account shewing the manner in which the winding up has been conducted, and

the property of the company disposed of; and thereupon they shall call a general meeting of the company for the purpose of having the account laid before them, and hearing any explanation that may be given by the liquidators; the meeting shall be called by advertisement, specifying the time, place and object of such meeting; and the advertisement shall be published one month at least previously thereto.

(2) The liquidator shall make a return to the Provincial Secretary of such meeting having been held, and of the date at which the same was held; which return shall be filed in the office of the Provincial Secretary; and on the expiration of three months from the date of the filing of such return, the company shall be deemed to be dissolved. R. S. O. 1887, c. 183, s. 40.

Return of holding of meeting to be sent to Provincial Secretary.

Dissolution of company.

41. Or whenever the affairs of the company have been completely wound up, the Court may make an order that the company be dissolved from the date of such order, and the company shall be dissolved accordingly; which order shall be reported by the liquidator to the Provincial Secretary. R. S. O. 1887, c. 183, s. 41.

Order for dissolution.

Report to Provincial Secretary.

42. If the liquidator makes default in transmitting to the Provincial Secretary the return mentioned in section 40, or in reporting the order (if any) declaring the company dissolved, he shall be liable to a penalty not exceeding \$20 for every day during which he is in default. R. S. O. 1887, c. 183, s. 42.

Penalty on default in reporting by liquidator or in making return.

43. All dividends deposited in a bank and remaining unclaimed at the time of the dissolution of the company, shall be left for three years in the bank where they are deposited, and if still unclaimed, shall then be paid over by such bank, with interest accrued thereon, to the Treasurer of Ontario, and, if afterwards duly claimed, shall be paid over to the persons entitled thereto. R. S. O. 1887, c. 183, s. 43.

Disposition of unclaimed dividends.

44.—(1) Every liquidator shall, within thirty days after the date of the dissolution of the company, deposit in the bank appointed or named as hereinbefore provided for, any other money belonging to the estate then in his hands not required for any other purpose authorized by this Act, with a sworn statement and account of such money, and that the same is all he has in his hands; and he shall be subject to a penalty of not exceeding \$10 for every day on which he neglects or delays such payment; and he shall be a debtor to Her Majesty for such money and may be compelled as such to account for and pay over the same.

Deposit by liquidator after dissolution of moneys with sworn statement.

Penalty on omission.

(2) The money so deposited shall be left for three years in the bank, and shall be then paid over, with interest, to the Treasurer of the Province, and if afterwards claimed shall be paid over to the person entitled thereto.

Money to remain on deposit for three years.

Disposal of books, etc., after winding up.

(3) Where a company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the company and of the liquidators may be disposed of in such a way as the company by an extraordinary resolution directs.

After five years responsibility as to custody of books, etc., to cease.

(4) After the lapse of five years from the date of such dissolution no responsibility shall rest on the company or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any party claiming to be interested therein. R. S. O. 1887, c. 183, s. 44.

RULES TO CARRY OUT ACT.

Board of County Judges to make rules and forms as to proceedings and costs, etc.

45.—(1) The Board of County Judges from time to time shall make and frame and settle the forms, rules and regulations to be followed and observed in proceedings under this Act, and shall make rules as to the costs, fees and charges which shall or may be had, taken or paid in all such cases by or to solicitors or counsel, and by or to officers of Courts, whether for the officers or for the Crown, and by or to sheriffs, or other persons whom it may be necessary to provide for, or for any service performed or work done under this Act.

Allowance or disallowance by Court of Appeal.

(2) The Board of County Judges or any three of them, shall under their hands certify to the Chief Justice of the Court of Appeal, all rules and forms made under this Act, and the Judges of the said Court (of whom the said Chief Justice shall be one) may approve of, disallow, or amend any such rules or forms; and the rules and forms so approved of (with or without amendment, as the case may be) shall have the same force and effect as if they had been made and included in this Act.

Practice till allowance of rules, etc.

(3) Until such forms, rules and regulations are so approved and subject to any which may be approved, the practice under this Act shall in cases not hereinbefore provided for, be the same (as nearly as may be), as under the Insolvent Acts for the time being in force in this Province. R. S. O. 1887, c. 183, s. 45.

DISTRIBUTION OF ASSETS OR REDUCTION OF CAPITAL.

Application of following sections.

46. The following sections of this Act shall apply to every company whose incorporation is under the authority of the Legislature of Ontario, where the shareholders or members of the company are entitled to the profits of the business of such company. R. S. O. 1887, c. 183, s. 46.

Authority given by special resolution.

47. Where a company has passed a special resolution authorizing any of the acts hereinafter allowed, the directors and officers may act in accordance with the terms of such resolution, subject to the following provisions of this Act. R. S. O. 1887, c. 183, s. 47.

48.—(1) The company may by such resolution direct that proceedings be taken to distribute the proceeds of all the assets of the company amongst the shareholders after payment of the debts of the company, Resolution for distribution of assets or reduction of capital.

(2) Or may, by such resolution, direct that proceedings be taken to reduce the capital:

(a) Either by paying off the shares of such persons as may elect to be paid off at a rate fixed by the resolution, or to be determined in accordance with a plan therein specified;

(b) Or by paying off a certain fixed proportion of all the shares.

(3) This section shall not apply to a company the capital of which is not divided into shares. R. S. O. 1887, c. 183, s. 48.

49.—(1) the company shall thereupon give notice (Form A) of the resolution in the *Ontario Gazette*, and in some newspaper published in the City of Toronto, and in some other newspaper published where the chief place of business of the company in Ontario is situate, if any newspaper is published in such place. Notice of resolution.

(2) The notice shall also state that after some day to be therein named, and which shall not be earlier than three months from the first publication of the notice in the *Gazette*, the company will act upon the resolution.

(3) The notice shall also call upon all creditors of the company to file their claims against the company forthwith, whether such claims are or are not then due.

(4) Where the company has no place of business in Ontario, or its chief place of business is in Toronto, it will be sufficient if the notice is published in the *Gazette* and in one Toronto newspaper.

(5) The notice shall be published in the *Gazette* and in each of the said newspapers (where publication in more than one is required) at least six times during the said period of three months, and in computing such six times, no two publications which occur in the same week shall be counted. R. S. O. 1887, c. 183, s. 49.

50. Upon the arrival of the day appointed, or so soon thereafter as conveniently may be, the officers of the company may act in accordance with the terms of the resolution: provided (1) either that the company has no creditors, and a statement (Form B) upon the oath or solemn affirmation of the chief executive officer and of the treasurer of the company stating their belief of this fact, is filed with the Clerk of the County When resolution may be carried into effect.

or District Court of the county or district where the chief office of the company is situated; (2) or the consent of the company's creditors to the resolutions being acted upon has been procured in writing, and a statement under oath or solemn affirmation of the said officers, containing the particulars set forth in Form C, is filed with the clerk. R. S. O. 1887, c. 183, s. 50.

Liability of officers for payments improperly made under resolution.

51. No officer of such company shall make or authorize any payment by virtue of such resolution until one or other of the said statements has been filed as aforesaid, or without the consent of every creditor of the company, so long as to his knowledge any debt, whether the same is due or not, or any accrued liability of the company, remains unsatisfied; and any officer who violates the provisions of this section shall, besides being subject to such criminal punishment as is authorized for his offence, be liable personally for the amount of such unsatisfied claim or accrued liability to the creditor or other person entitled to claim from the company. R. S. O. 1887, c. 183, s. 51.

Liability of shareholders for moneys received under resolution.

52. Every shareholder receiving moneys under such resolution, shall, to the extent of the moneys so received, remain liable for any debts or liabilities of the company then in fact existing, and upon the winding up of the company by judicial process, every such person, his executors or administrators, may be required to contribute to that extent towards the payment of such debts or liabilities after the other assets of the company have been exhausted; but no executor or administrator shall be held so liable unless at the time he receives notice of the assessment he has in his hands assets applicable thereto or subsequently receives such assets. R. S. O. 1887, c. 183, s. 52.

Restriction on insurance companies, etc.

53. No insurance or guarantee company, or other company carrying on business of a like nature, shall pay off any part of its capital stock under this Act until every policy, and every instrument having the effect of a policy, given by the company has expired, or been terminated, and, in the case of such a company, this fact shall be stated in the statement (Form B or C) filed as aforesaid. R. S. O. 1887, c. 183, s. 53.

Resolution to reduce par value of shares not to affect amount payable on such shares.

54. When the capital of the company has become impaired, and the shareholders pass a special resolution to reduce the par value of the shares of the company, the shares shall thereupon be reduced in accordance with the terms of the resolution, provided that the resolution shall not in any wise affect the amount still remaining payable upon the shares, but the same amount shall, except as to a double or other additional liability, continue to be payable in respect of every share as if such resolution had not been passed; and in case by virtue of the charter or Act of incorporation of the company or of any

general or other Act affecting the same, a double or other additional liability is cast upon the shareholders, the same proportionate liability shall continue, that is to say, if the liability was a double liability, the shareholders shall, as to new creditors, be liable for double the amount of the stock at its reduced value, and in like manner for any other proportion, but in respect of persons who are creditors at the time of the reduction, the liability of the shareholders shall continue as if such reduction had not taken place. R. S. O. 1887, c. 183, s. 54.

55. Where a reduction is had under the preceding section, a notice thereof (Form D) shall be published at least once a week for six weeks in the manner hereinbefore provided in section 49. R. S. O. 1887, c. 183, s. 55.

Notice of reduction of par value of shares.

56. Where a company, acting under the provisions of this Act, has reduced its capital, every advertisement, circular or other document thereafter issued by the company, or any of its officers, containing a statement of the capital of the company shall state such capital at the amount to which it has been reduced. R. S. O. 1887, c. 183, s. 56.

Where capital reduced advertisements of company to state same as reduced.

SCHEDULE.

FORM A.

[Section 49.]

Notice is hereby given that the *[insert name of company]* has, by a special resolution passed by the shareholders of the said company, resolved to *[set out the substance of the resolution]*.

The company will act upon the said resolution upon the day of next.

All creditors of the company are hereby required to file their claims against the company forthwith, whether or not such claims are now due.

A. B.,
Secretary.

Date, etc.

R. S. O. 1887, c. 183, Form A.

FORM B.

[Sections 50 and 53, First Method.]

I, A. B., of the in the County of
make oath and say *[or solemnly affirm, as the case may require]*,

1. I am the *[here insert title of office]* of the *[name of company,]* and I am the Chief Executive Officer of the said company, and, as such officer, have the supervision and management of the business of the said company.

2. I verily believe the said company is not indebted to any person or persons, or to any company, association or corporation whatsoever, and I verily believe that no person, company, association or corporation has any right of action whatever against the said [name of company].

[In the case of insurance or guarantee companies, or other company carrying on business of a like nature, the following paragraph is to be added:]

3. Every policy, and every instrument having the effect of a policy given by the said company has expired or been terminated.
Sworn, etc.

N.B.—The statement by the Treasurer of the company is to be identical with the above, except as to the paragraph setting forth the office held.

R. S. O. 1887, c. 183, Form B.

FORM C.

[Sections 50 and 53, Second Method.]

I, C. D., of the _____ in the County of _____
make oath and say [or solemnly affirm, as the case may require],

1. I am the [here insert title of office] of the [name of company], and I am the Chief Executive Officer of the said company, and, as such officer, have the management and supervision of the business of the said company.

2. I verily believe that the said company is not indebted to any person or persons, or to any company, association or corporation whatsoever, except those whose names appear in the schedule which is hereto annexed, and every such person, company and association has consented, in writing, to the following resolution being acted upon, that is to say [here set out the resolution].

3. I verily believe that no person, company, association or corporation, except such as are named in the said schedule, has any right of action whatever against the said company.

[In the case of insurance or guarantee companies, or other company carrying on business of a like nature, the following paragraph is to be added:]

4. Every policy, and every instrument having the effect of a policy, given by the said company, has expired or been terminated.

Sworn, etc.

N. B.—The statement by the Treasurer of the company is to be identical with the above, except as to the paragraph setting forth the office held.

R. S. O. 1887, c. 183, Form C.

FORM D.

[Section 55.]

Notice is hereby given that the [name of company] has by a special resolution passed by the shareholders of the said company, reduced the capital of the company from \$ _____ to \$ _____, and has reduced the par value of each share of the said company from \$ _____ to \$ _____.

A. B.,

Secretary.

Date, etc.

R. S. O. 1887, c. 183, Form D.

MUNICIPAL FINANCE.

R. S. O. 1897, CAP. 223 ; 61 VICT., CAP. 23.

An Act respecting Municipal Institutions.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

1. This Act may be cited as “*The Municipal Act*,” and shall not affect the provisions of any special Act relating to any particular municipality. 55 V., c. 42, s. 1, s. 674 *part*.

Short title.

Application of Act.

291. . . . (5) The treasurer shall open an account in the name of the municipality in such of the chartered banks of Canada or at such other place of deposit as may be approved of by the council, and shall deposit to the credit of such account all moneys received by him.

56 V., c. 35, s. 5 *part*; 57 V., c. 50, s. 4 *part*.

304. . . . (4) The auditors may make a written requisition upon the treasurer for an order or request to or upon any bank or company with whom the public moneys are or have been deposited, or with whom such treasurer has kept an account, authorizing and requesting such bank or company to exhibit the account and details thereof to such auditors; and such treasurer shall within twenty-four hours after the delivery to him of such requisition comply therewith upon pain of forfeiture of office. 55 V., c. 42, s. 263 (2) (b); c. 43, s. 12 *part*.

Inspection of books of bank or company.

AUTHENTICATION OF BY-LAWS.

*Original. Sec. 333.**Evidence of. Sec. 334.**Proof of facts for Lieutenant-Governor. Sec. 335.*How by-laws
to be authen-
ticated.

333. Every by-law shall be under the seal of the corporation, and shall be signed by the head of the corporation, or by the person presiding at the meeting at which the by-law was passed, and by the clerk of the corporation. 55 V., c. 42, s. 288.

Evidence of.

334. A copy of any by-law, written or printed, without erasure or interlineation, and under the seal of the corporation, and certified by the clerk, and by any member of the council to be a true copy, shall be deemed authentic, and shall be received in evidence in any Court of Justice, without proof of the seal or signatures, unless it is specially pleaded or alleged that the seal or one or both of the signatures has or have been forged. 55 V., c. 42, s. 289. [*See also Sec. 485.*]

By-laws
requiring
assent of the
Lieutenant-
Governor.

335. The facts by this Act required to be recited in any by-law which requires the approval of the Lieutenant-Governor in Council, shall, before the by-law receives such approval, be verified by solemn declaration by the head of the council, and by the treasurer and clerk thereof, and by such other person, and on such other evidence, as to the Lieutenant-Governor in Council satisfactorily proves the facts so recited; or in case of the death or absence of any of the municipal officers hereinbefore mentioned, upon the declaration of any other member of the council, whose declaration the Lieutenant-Governor in Council accepts. 55 V., c. 42, s. 290.

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CONFIRMATION OF BY-LAWS.

*By publication. Sec. 375.**Notice. Sec. 376.**When not moved against. Sec. 377.*Promulgation
of by-laws.

375. The promulgation of a by-law shall consist in the publication, through the public press, of a true copy of the by-law, and of the signature attesting its authenticity, with a notice appended thereto of the time limited by law for applications to quash the same or any part thereof, and the publication aforesaid shall be in such public newspaper, published either within the municipality or in the county town, or in an adjoining neighbouring or local municipality, as the council by resolution may designate, and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper, each week for three successive weeks. 55 V., c. 42, s. 329; 56 V., c. 35, s. 8.

376. The notice to be appended to every copy of the by-law for the purpose aforesaid, shall be to the effect following :

Form of notice to be published with by-law.

NOTICE.—The above is a true copy of a by-law passed by the municipal council of the _____ of _____ on the _____ day of _____ A.D. 18 _____ (and approved by His Honour the Lieutenant-Governor in Council on the _____ day of _____ 18 _____ where such approval is required to give effect to the by-law) : And all persons are hereby required to take notice that any one desirous of applying to have such by-law, or any part thereof, quashed, must make his application for that purpose to the High Court of Justice, within three months next after the publication of this notice once a week for three successive weeks, in the newspaper called the _____ or he will be too late to be heard in that behalf.

55 V., c. 42, s. 330.

377. In case no application to quash a by-law is made within three months next after the third publication thereof and of the notice aforesaid, the by-law, or so much thereof as is not the subject of any such application, or is not quashed upon such application, shall, notwithstanding any defect of substance or form, either in the by-law itself, or in the time or manner of passing the same, be a valid by-law, so far as the same ordains, prescribes or directs anything within the proper competence of the council to ordain, prescribe or direct. 55 V., c. 42, s. 331 ; 60 V., c. 15, *Sched. C* (62).

If not moved against within the time limited, to be valid.

BY-LAWS CREATING DEBTS.

Requisite formalities. Secs. 384-386.

Principal may be repayable by annual instalments. Sec. 386.

Special rates a charge on property. Sec. 387.

Assent of electors, when required. Secs. 388, 389.

When special council meetings requisite. Sec. 390.

When repealable and when not. Secs. 391, 392.

Illegal repeal to be ignored by municipal officers. Sec. 393.

Purchase of public works, etc., by councils. Sec. 394.

Rates to be imposed therefor. Sec. 395.

384.—(1) Every municipal council may, under the formalities required by law, pass by-laws for contracting debts for any purpose within the jurisdiction of the council, by borrowing money or otherwise, and for levying rates on the ratable property of the municipality for payment of such debts, but no such by-law shall be valid which is not in accordance with the following restrictions and provisions, except in so far as is otherwise provided in the next following two sections of this Act. 55 V., c. 42, s. 340, *first clause*.

By-laws for contracting debts.

(2) The by-law (if not creating a debt for the purchase of public works, whether of this Province or of the Dominion of Canada, pursuant to the statutes in that behalf and to the

provisions of sections 394 and 395) shall name a day in the financial year in which the same is passed when it is to take effect; and if no day is named it shall take effect on the day of the passing thereof. 60 V., c. 45, s. 43 (1).

Debentures,
when to be
issued.

(3) The debentures may be issued all at one time, and in such case within a year after the passing of the by-law; or, in any case where, because of the proposed expenditure upon the objects for which the debt is contracted being estimated to extend over a series of years, and it being undesirable to have large portions of the moneys in hand unused and uninvested, or for other like or sufficient causes set out in the by-law, it would, in the opinion of the municipal council, be to the advantage of the municipality, the debentures may be issued in instalments of such amounts (not exceeding in the aggregate the total amount for which provision is made by the by-law), and at such times as the exigency of the case demands, but so that the whole shall be issued within five years, and the first instalment within one year, after the passing of the by-law. 60 V., c. 45, s. 43 (2).

When to be
made payable.

(4) If contracted for railways, harbour works or improvements, gas or water-works, or for the construction of sewers, the purchase and improvement of parks or the erection of public school houses, or for electric light works in towns having a population of 5,000 or under, the whole debt, or each instalment of the debt, as the case may be, and the obligations to be issued therefor, respectively, shall be made payable in thirty years at furthest; and unless contracted for any of the purposes aforesaid, or for the purchase of public works, as aforesaid, then in twenty years at furthest from the time or times when the debentures are by the by-law directed or authorized to be issued, whether that be at a date or dates certain, specifically fixed, or at a date or dates depending upon and determined by the happening of any event or events or upon the fulfilment of any condition or conditions as set forth in the by-law. 60 V., c. 45, s. 43 (2a). *See sec. 565.*

Special rate.

(5) The by-law shall settle a certain specific sum to be raised annually, for the payment of interest during the currency of the debentures or of each instalment of the debentures, as the case may be, and also a certain specific sum to be raised annually for the payment of the debt, or of each instalment thereof, as the case may be; and the said sums shall be such as will be sufficient, with the estimated interest on the investments thereof, to discharge the debt, or the instalment, as the case may be, when payable; and the annual rate required for such purposes shall begin from the date when the debentures are by the by-law directed or authorized to be issued as aforesaid. 60 V., c. 45, s. 43 (3).

Commence-
ment of an-
nual rate.

(6) No by-law passed before the 1st day of July, 1897, shall be deemed to be invalid by reason only of such annual rate

commencing at a time subsequent to the year in which the by-law took effect, or because the levy of such annual rate did not begin until the fulfilment of conditions contained in the by-law. 60 V., c. 45, s. 43 (3a), and s. 46.

(7) Nothing in this section contained shall apply to or affect any debentures issued or to be issued in pursuance of section 21 of the Act passed in the 54th year of Her Majesty's reign, chaptered 72, or sections 1 and 3 of the Act passed in the 57th year of Her Majesty's reign, chaptered 71. 60 V., c. 45, s. 43 (3c). Debentures issued under certain special Acts not affected.

(8) In settling the sum to be raised annually for the payments of the debt, the rate of interest on investments shall not be estimated at more than four per cent. per annum to be capitalized yearly; 55 V., c. 42, s. 340 (4); 60 V., c. 45, s. 45. Interest on investments how estimated.

(9) The by-law shall provide that such annual sum shall be raised and levied in each year by a special rate sufficient therefor, on all the ratable property in the municipality; or, (if the by-law is for a work payable by local assessment), on all the property ratable under the by-law or per foot frontage as the case may be; 55 V., c. 42, s. 340 (5). Property on which rate to be levied.

(10) The by-law, unless it is for a work payable by local assessment, shall recite: Recitals:

- (a) The amount of the debt which the new by-law is intended to create, and, in some brief and general terms, the object for which it is to be created; Amount and object of debt;
- (b) The total amount required by this Act to be raised annually by special rate for paying the new debt and interest; Amount to be raised annually;
- (c) The amount of the whole ratable property of the municipality according to the last revised, or revised and equalized assessment roll; The value of the ratable property;
- (d) The amount of the existing debenture debt of the municipality, and how much (if any) of the principal or interest is in arrear. 55 V., c. 42, s. 340 (6). Amount of existing debt.

385.—(1) If the by-law is for a work payable by local assessment, it shall recite: By-law for a work payable by local assessment must:

- (a) The amount of the debt which the by-law is intended to create, and, in some brief and general terms, the object for which it is to be created; Amount and object of debt.
- (b) The total amount required by this Act to be raised annually by special rate for paying the debt and interest under the by-law; Amount to be raised annually;
- (c) The value of the whole real property ratable under the by-law, as ascertained and finally determined as aforesaid; Value of real property ratable:

That debt
created on
security of
special rate.

(d) That the debt is created on the security of the special rate settled by the by-law, and on that security only.

Power to
guarantee
local improve-
ment debentures.

(2) In the case of by-laws passed, or to be passed for works payable by local assessment, in order to facilitate the negotiation of debentures issued thereunder, and add to the commercial value, the council of any township, city, town, or village, may declare that the debt to be created on the security of the special rate settled by the by-law is further guaranteed by the municipality at large, anything contained in clause (d) of sub-section 1 of this section to the contrary notwithstanding. 55 V., c. 42, s. 341.

Making debt
payable in an-
nual instalments.

386.—(1) In any case of passing a by-law for contracting a debt by borrowing money for any purpose, the municipal council may, in its discretion, make the principal of the debt, or of each instalment of the debt, as the case may be, repayable by yearly sums, during the currency of the period (not exceeding thirty years, if the debt is for railways, harbour works or improvements, gas or water-works or for the construction of sewers, the purchase and improvement of parks or the erection of public school houses, or for electric light works in towns having a population of 5,000 or under, and not exceeding twenty years if the debt is for any other purpose except the purchase of public works as in sub-section 2 of section 384 mentioned), within which the debt, or the instalment of the debt, as the case may be, is to be discharged; and such yearly sums shall be of such amounts that the aggregate amount payable for principal and interest in any year in respect of the debt, or of the instalment, as the case may be, shall be equal, as nearly as may be, to what is payable for principal and interest during each of the other years of such period; and the council may issue the debentures of the municipal corporation for the amounts, and payable at the times corresponding with such yearly sums, together with interest, annually or semi-annually, as may be set forth and provided in the by-law. 60 V., c. 45, s. 44 (1). *See in the case of certain towns, sec. 567.* 61 V., c. 23, s. 15.

(2) The by-law shall set forth a certain specific sum, to be raised in each year during the currency of the debt, or of the instalment of the debt, as the case may be, which sum shall be sufficient to discharge the several yearly sums of principal and interest accruing due, as the said yearly sums become, respectively, payable according to the terms of the by-law; and in cases within this section it shall not be necessary that any provision be made for sinking fund. 60 V., c. 45, s. 44 (2).

Special rates
a charge on
property.

387. Every special assessment made, and every special rate imposed and levied, under any of the provisions of this Act, and all sewer rents and charges for work or services done by

the corporation, upon the default of the owners of real estate, under the provisions of any valid by-law of the council of the corporation, shall form a lien and charge upon the real estate upon, or in respect of which, the same have been assessed and rated or charged, and shall be collected in the same manner, and with the like remedies, as ordinary taxes upon real estate are collectible, under the provisions of *The Assessment Act*, 55 V., c. 42, s. 343. Rev. Stat. c. 224.

388. A county council elected under this Act may, during any one term for which it is elected, raise by a by-law or by-laws for contracting debts or loans not more than \$20,000 over and above the sums required for its ordinary expenditure without submitting such by-law or by-laws for the assent of the electors. 59 V., c. 52, s. 37; 60 V., c. 15, *Sched. C* (125). County by-laws for raising more than \$20,000 in any year to be submitted to electors.

389.—(1) Subject to the provisions of the last preceding section every by-law (except for drainage, as provided for under *The Municipal Drainage Act*, or for a work payable entirely by local assessment) for raising, upon the credit of the municipality, any money not required for its ordinary expenditure, and not payable within the same municipal year, shall, before the final passing thereof, receive the assent of the electors of the municipality in the manner provided for in section 338 and following sections of this Act. 55 V., c. 42, s. 344 (1) *part*; 59 V., c. 52, s. 37; 60 V., c. 15, *Sched. C* (65). By-laws for raising money not for ordinary expenses must (with certain exceptions) receive assent of electors.
Rev. Stat. c. 226.

(2) But where a county and city are united for judicial purposes, the council of the county or city may, at any meeting of the council, without submitting the same for the assent of the electors of such county or city, as the case may be, pass a by-law or by-laws for contracting a debt, by raising such sums of money as may be required for erecting, building and furnishing a court house and offices to be used in connection therewith, and for acquiring such land as may be necessary or convenient for the purposes of such court house and offices, and may for that purpose issue debentures at such rates and upon such terms and payable at such times as they may do for meeting any other liability of the said county or city. 55 V., c. 42, s. 344 (2); 60 V., c. 15, *Sched. C* (66). Exception as to erecting court houses and offices.

(3) The council of a city or of a town withdrawn from the county, may by by-law passed at any meeting of the council, without submitting the same for the assent of the electors, raise such sums of money as may be required to liquidate their share of the county debt (as awarded or agreed upon pursuant to this Act), and may, for that purpose, issue debentures at such rates, for such times and upon such terms as they are entitled to do for meeting any other liability of said city or town. 55 V., c. 42, s. 344 (3). Exception as to payment by a city or town of share of county debt.

Certain by-laws of county council not to be valid unless passed at meeting especially called and held three months after notice, etc.

390. Except in the case provided for by sub-section 2 of the last preceding section, no by-law of a county council for contracting any such debt or loan, as is mentioned in section 388 of this Act, shall be valid unless the same is passed at a meeting of the council specially called for the purpose of considering the same, and held not less than three months after a copy of the by-law, as the same is ultimately passed, together with a notice of the day appointed for the meeting, has been published in some newspaper issued weekly or oftener within the county (as constituted for judicial purposes), or if there is no such public newspaper, then in a public newspaper published nearest to the county, which said notice may be to the effect following:

Form of notice.

The above is a true copy of a proposed by-law, to be taken into consideration by the county council of the County (or United Counties) of _____, at _____ in the said County (or United Counties), on the _____ day of _____, 18____, at the hour of _____ o'clock in the _____ noon, at which time and place the members of the Council are hereby required to attend for the purpose aforesaid.

G. H.,
Clerk.

55 V., c. 42, s. 345.

When part only of money raised, by-law may be repealed as to residue.

391. Where part only of a sum of money provided for by a by-law has been raised, the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the special rate imposed therefor, provided (a) the repealing by-law recites the facts on which it is founded, (b) is appointed to take effect on the 31st day of December in the year of its passing, (c) does not affect any rates due, or penalties incurred before that day, and (d) is first approved by the Lieutenant-Governor in Council. 55 V., c. 42, s. 346.

Until debt paid certain by-laws cannot be repealed,

392. After a debt has been contracted, the council shall not, until the debt and interest have been paid, repeal the by-law under which the debt was contracted, or any by-law for paying the debt or the interest thereon, or for providing therefor a rate or additional rate, or for appropriating thereto the surplus income of any work or of any stock or interest therein, or money from any other source; and the council shall not alter a by-law providing any such rate, so as to diminish the amount to be levied under the by-law, except in the cases herein authorized, and shall not apply to any other purpose any money of the corporation which, not having been previously otherwise appropriated by any by-law or resolution, has been directed to be applied to such payment. 55 V., c. 42, s. 347.

nor altered.

Exceptions.

No officer to neglect, etc., to carry out by-law for payment under colour of illegal by-law.

393. No officer of the municipality shall neglect or refuse to carry into effect a by-law for paying a debt under colour of a by-law illegally attempting to repeal such first mentioned by-law, or to alter the same so as to diminish the amount to be levied under it. 55 V., c. 42, s. 348.

394. Any council may contract a debt to Her Majesty in the purchase of any of the public roads, harbours, bridges, buildings or other public works in Ontario, whether belonging to this Province or to the Dominion of Canada, or of any claim in respect of such works, or of any right to collect tolls on such road or bridge, or for making such road or bridge wholly or partly free from tolls; and may execute such bonds, deeds, covenants and other securities to Her Majesty as the council deems fit, for the payment of the price of any such public work or claim already sold or transferred, or which may be sold or transferred, or agreed to be sold or transferred to the municipal corporation, and for securing the performance and observance of all or any of the conditions of sale or transfer; and may also pass all necessary by-laws for any of the purposes aforesaid; and all such by-laws, debts, bonds, deeds, covenants and other securities shall be valid, although no special or other annual rate has been settled or imposed, to be levied in each year, as provided by sections 384 to 386 of this Act. 55 V., c. 42, s. 349.

Municipal councils may purchase public works, etc., and contract debts to Crown,

although no special or other annual rate settled.

395. The council may, in any by-law to be passed for the creation of such debt, or for the execution of such bonds, deeds, covenants or other securities as aforesaid, to Her Majesty, or in any other by-law to be passed by the council, settle and impose a special rate per annum, of such amount as the council deem expedient, in addition to all other rates whatsoever, to be levied in each year upon the assessed ratable property within the municipality, for the payment and discharge of such debts, bonds, deeds, covenants or other securities, or some part thereof; and the by-laws shall be valid, although the rate settled or imposed thereby is less than is required by sections 384 to 386; and the said sections shall, so far as applicable, apply and extend to every such by-law, and the moneys raised or to be raised thereby, as fully in every respect as such provisions would extend or apply to any by-law enacted by any council for the creation of any debt as provided in the said sections, or to the moneys raised or to be raised thereby. 55 V., c. 42, s. 350.

Rates may be imposed for the payment of debts contracted with the Crown for such works.

REGISTRATION OF BY-LAWS AND NOTICE THEREOF.

By-laws creating debts to be registered. Sec. 396.

Notices thereof to be published. Sec. 397.

Exception as to certain local improvement by-laws. Sec. 398.

Application to quash—procedure. Sec. 399.

Registered local improvement by-laws to be valid. Sec. 400.

Application to quash such by-laws. Sec. 401.

396.—(1) Subject to the provisions of section 398 of this Act, every by-law passed by any municipality for contracting

By-laws creating debts to be registered.

any debt, by the issue of debentures for a longer term than one year, and for levying rates for the payment of such debts, on the ratable property of the municipality, or any part thereof, shall, within four weeks after the final passing thereof, be transmitted by the clerk of the municipality, in the case of a county to the registrar of the registry division in which the county town is situate, and in the case of a local municipality to the registrar of the registry division in which the local municipality is situate. 55 V., c. 42, s. 351; 60 V., c. 45, ss. 7 (1), 47, 48.

Registration of by-laws. (2) The registrar shall receive and file in his office, and enter in the proper book, every by-law so transmitted to him.

Proof for registration. (3) The by-law shall be certified and authenticated by the seal of the municipal corporation, and the signature of the head thereof or of the person presiding at the meeting at which the by-law has been made and passed, and that of the clerk of the corporation.

Inspection of registered by-laws. (4) The copy so certified shall be open to public inspection and examination at all reasonable times and hours upon payment of the proper fees.

Fees of registrar. (5) The registrar shall be entitled to the fees following :

For registration of each such certified copy	\$2 00
For making search, inspecting each copy of by-law, and examining entries connected therewith	0 50

Penalty. (6) Any clerk who neglects to perform within the proper period any duty devolving upon him in virtue of this section shall be subject to a fine of \$200, to be recovered by prosecution in the name of the Attorney-General of Ontario in any court of competent jurisdiction, and in default of payment, to imprisonment for a period not exceeding twelve months. 60 V., c. 3, s. 3; c. 45, s. 47 (2-6).

Publication of notice. **397.**—(1) Notice of the passing of every such by-law which has not been submitted to the ratepayers, shall, immediately after the registration of the by-law, be published in such public newspaper, published either within the municipality, or in the county town, or in an adjoining local municipality, as the council may designate by resolution, and the publication thereof shall for the purpose aforesaid be continued in at least one number of such paper each week for three successive weeks. 55 V., c. 42, s. 352 (3).

Form of notice. (2) The notice shall be in the form following or to the like effect :

Notice is hereby given that a by-law was passed by the _____ of _____ on the _____ day of _____ A.D. 18 _____, providing for the issue of debentures to the amount of \$ _____, for the purpose of _____ and that such by-law was registered in the registry office of _____ the county of _____ on the _____ day of _____ A.D. 18 _____.

Any motion to quash or set aside the same or any part thereof, must be made within three months (*or in the case provided for by section 400 within one month*) from the date of registration, and cannot be made thereafter.

Dated the _____ day of _____ 18 ____.

Clerk.

55 V., c. 42, s. 354.

398. Nothing in sections 396 to 401 inclusive contained shall make it obligatory upon any city, town or village to register any by-laws providing for the issue of debentures, passed under the provisions of *The Municipal Drainage Act*, or under the provisions of this Act relating to local improvements, but the same may be so registered at the option of the municipality. R. S. O. c. 184, s. 353.

Exception as to local improvement by-laws.

Rev. Stat. c. 226.

399.—(1) Every by-law registered under section 396 of this Act, or registered before the sale of the debentures issued thereunder, and also the said debentures shall be absolutely valid and binding upon the municipality, according to the terms thereof, and the by-law shall not be quashed or set aside on any ground whatever, unless, within three months from the registry thereof, an application or action to quash or set aside the same is made to some Court of competent jurisdiction, and a certificate under the hand and seal of the Clerk of the Court, stating that such action or proceeding has been brought or application made, has been registered in said registry office within the said period of three months. 55 V., c. 42, s. 352 (1); 60 V., c. 45, s. 7 (2).

Applications to set aside by-law.

(2) The certificate shall be in the form or to the effect following:

Form of certificate of pending action.

In the _____ (name of court)

This is to certify that in a certain action or proceeding in this Court, entitled _____ the validity of by-law No. _____ of the _____ entitled _____ has been called in question (*if a portion only of the by-law is called in question, state the fact*).

Dated,

(Signed) A. B.,
Clerk of



55 V., c. 42, s. 356 (1).

(3) If the action or proceeding is dismissed, in whole or in part, then, on the expiration of three months from the date of the registration of the by-law, the by-law or so much thereof as is not the subject of the application, or is not quashed upon the application shall be absolutely valid and binding, according to the terms thereof. Upon the dismissal of such action or proceeding, a certificate to that effect may be registered in the said registry office. 55 V., c. 42, s. 352 (2).

When by-law, or so much thereof as is not quashed, to be valid.

Certificate of dismissal of action.

Form of certificate of dismissal of action.

(4) The certificate of dismissal of the action or proceeding shall be in the form or to the effect following :

In the (name of court)
I hereby certify that the action or proceeding in this Court, entitled
calling in question the validity of
by-law No. of the has
been dismissed (or if dismissed in part and granted in part, set out the
order made, *verbatim*).
Dated

(Signed) A. B.,
Clerk of { Seal. }

55 V., c. 42, s. 356 (2).

Fee for registration.

(5) The registrar shall be entitled to the sum of fifty cents for registering either of said certificates 55 V., c. 42, s. 356 (3).

Illegal by-laws not validated.

(6) Nothing in this section contained shall be taken to make valid a by-law or the debentures issued thereunder where it appears on the face of such by-law that the provisions of sub-sections 4, 5, 8 and 9 of section 384 or the provisions of section 386 of this Act have not been substantially complied with. 55 V., c. 42, s. 352 (6); c. 43, s. 23.

Irregularities in form not to invalidate debentures in certain cases.

400.—(1) Every by-law providing for the issue of debentures passed under the provisions of this Act relating to local improvements, where the same has been so registered, and the debentures issued thereunder, and the assessment made upon the real property therein mentioned shall, notwithstanding any defect of substance or form either in the by-law itself, or in the time and manner of passing the same, be absolutely valid and binding according to the terms thereof, upon the municipality and upon such real property, and shall not be quashed or set aside on any ground whatever, unless an application or action to quash or set aside the same is made to some Court of competent jurisdiction, within one month from the registry thereof. 55 V., c. 42, s. 352 (4); 60 V., c. 15, *Sched. C* (67); c. 45, ss. 4, 5.

Application to by-laws passed under section 678.

(2) The provisions of this section shall also apply to all by-laws passed under section 678 of this Act, and to the debentures issued thereunder. 60 V., c. 45, s. 5 (3).

Registration of certificate of application to quash.

401.—(1) Where any action or proceeding is brought or taken, or where an application is to be made to quash or set aside such by-law so registered, a certificate thereof under the hand and seal of the Clerk of the Court in the form given in sub-section 2 of section 399, or to the same effect, shall be registered in the proper registry office within five weeks from the date of registering the by-law, and in default thereof the Court may refuse to hear, or may dismiss any such action, proceeding, motion or application to quash or set aside the by-law. 55 V., c. 42, s. 352 (5); 60 V., c. 45, ss. 4, 5.

BY-LAWS RESPECTING YEARLY RATES.

Amount and limit of Rates. Sec. 402.

How estimated. Sec. 403.

Estimates and by-laws to be annual. Secs. 404, 405.

In case of deficiency. Secs. 406, 407.

In case of excess. Sec. 408.

Date from which taxes imposed. Sec. 409.

Priority of debentures. Sec. 410.

Power to exempt from taxation. Sec. 411.

Reduction of special rate. Sec. 412.

Formalities in by-law therefor. Sec. 413.

402.—(1) The council of every municipal corporation, and of every provisional corporation, shall in each year assess and levy on the whole ratable property within its jurisdiction a sufficient sum to pay all valid debts of the corporation, whether of principal or interest, falling due within the year; but no such council shall assess and levy in any one year more than an aggregate rate of two cents in the dollar on the actual value, exclusive of school rates and local improvement rates. 55 V., c. 42, s. 357 (1); 60 V., c. 15, *Sched. C* (68).

Yearly rates to be levied, sufficient to pay all debts payable within the year.

Aggregate rate limited to two cents in the dollar.

(2) If in a municipality the aggregate amount of the rates necessary for payment of the current annual expenses of the municipality, and of the interest and principal of the debts contracted by the municipality on or prior to the 29th day of March, 1873, exceeds the said aggregate rate of two cents in the dollar on the actual value of such ratable property, the council of the municipality shall levy such further rates as may be necessary to discharge obligations incurred up to that date, but shall contract no further debts until the annual rates required to be levied within the municipality are reduced within the aggregate rate aforesaid; but this shall not affect any special provisions to the contrary contained in any special Act now or hereafter in force. 55 V., c. 42, s. 357 (2).

Provision when such aggregate not sufficient to pay debts payable within the year.

Proviso.

403. In counties and local municipalities the rates shall be calculated at so much in the dollar upon the actual value of all the real and personal property liable to assessment therein. 55 V., c. 42, s. 358.

How rates to be calculated.

404. The council of every county and of every local municipality shall every year make estimates of all sums which may be required for the lawful purposes of the county or local municipality, for the year in which such sums are required to be levied, each municipality making due allowance for the cost of collection, and of the abatement and losses which may occur in the collection of the tax, and for taxes on the lands of non-residents which may not be collected. 55 V., c. 42, s. 359.

Estimates to be made annually.

By-laws for raising money by rate.

405. The council of every municipality may pass one by-law, or several by-laws, authorizing the levying and collecting of a rate or rates of so much in the dollar upon the assessed value of the property therein as the council deems sufficient to raise the sums required on such estimates. 55 V., c. 42, s. 360.

If the amount collected falls short.

406. If the amount collected falls short of the sums required, the council may direct the deficiency to be made up from any unappropriated fund belonging to the municipality. 55 V., c. 42, s. 361.

Estimates may be reduced.

407. If there is no unappropriated fund, the deficiency may be equally deducted from the sums estimated as required, or from any one or more of them. 55 V., c. 42, s. 362.

When sums collected exceed estimate, appropriation of the balance.

408. If the sums collected exceed the estimates, the balance shall form part of the general fund of the municipality, and be at the disposal of the council, unless otherwise specially appropriated; but if any portion of the amount in excess has been collected on account of a special tax upon any particular locality, the amount in excess collected on account of such special tax shall be appropriated to the special local object. 55 V., c. 42, s. 363.

Yearly taxes to be computed from 1st January, unless otherwise ordered.

409. The taxes or rates imposed or levied for any year shall be considered to have been imposed, and to be due on and from the 1st day of January of the then current year ending with the 31st day of December thereof, unless otherwise expressly provided by the enactment or by-law under which the same are directed to be levied. 55 V., c. 42, s. 364.

Priority of debentures.

410.—(1) All debentures issued before the 1st day of January, 1867, by municipal corporations, under any by-law, and based upon the yearly value of ratable property at the time of the passing of such by-law, shall hold the order of priority which they occupied on the said 1st day of January, 1867; and each municipal corporation having so issued debentures shall levy a rate on the actual real value of the ratable property within the municipality, sufficient to produce a sum equal to that leviable or produced on the yearly value of such property as established by the assessment roll for the year 1866; and such rates shall be applied solely to the payment of such debentures, or of the interest on such debentures, according to the terms of the by-laws under which they were issued.

How rates for paying them to be calculated.

To be applied solely to such purposes.

Rate for sinking fund.

(2) In cases where a sinking fund is required to be provided either by the investment of a specific rate or amount, or on a rate on the increase in value over a certain sum, then such a rate shall be levied as shall at least equal the sum originally intended to be set apart. 55 V., c. 42, s. 365.

411. Every municipal council shall by a two-thirds vote of the members thereof have the power of exempting any manufacturing establishment, or any building for the storage of ice for commercial purposes, or any water-works or water company, in whole or in part, from taxation, except as to school taxes, for any period not longer than ten years, and to renew this exemption for a further period not exceeding ten years. 55 V., c. 42, s. 366; 58 V., c. 42, s. 14.

Exemption of
manufac-
tories or
water-works
from taxation.

412.—(1) If, on account of a sum being on hand from a previous year, or a sum being on hand which has been derived from the work, or from the investment of the sinking fund, or on account of the increased value of property liable to assessment, it is found to be unnecessary to levy the full rate imposed by any by-law, in order to raise the instalment of the sinking fund and interest thereby required to be raised for any year, or to raise such instalments for any future years of the then unexpired time which the debentures have to run, the council may pass a by-law reducing the rate for such year or for any such future years, so that no more money may be collected than the amount required.

When the rate
imposed by a
by-law may be
reduced.

(2) No such by-law shall be passed unless, having regard to the time the debentures have to run, a proper proportion of sinking fund and interest has been levied, according to the intention of the original by-law. 55 V., c. 42, s. 367.

413. No by-law passed under the preceding section shall be valid unless, after it is passed, it is approved by the Lieutenant-Governor in Council; and the facts which authorize the passing of such by-law shall, on its submission for approval, be verified in the manner provided by section 335 of this Act. 55 V., c. 42, s. 368.

By-law to be
approved by
Lieutenant-
Governor.

ANTICIPATORY APPROPRIATIONS.

When and how made. Secs. 414, 415.

On separation of municipalities. Sec. 416.

414. In case a council desires to make an anticipatory appropriation for the next ensuing year in lieu of the special rate for such year, in respect of any debt, the council may do so, by by-law, in the manner and subject to the provisions and restrictions following:

Anticipatory
appropriations
may be made.

1. The council may carry to the credit of the sinking fund account of the debt, as much as may be necessary for the purpose aforesaid,

What funds
may be so
appropriated.

(a) Of any money at the credit of the special rate account of the debt beyond the interest on such debt for the year following that in which the anticipatory appropriation is made;

- (b) And of any money raised for the purpose aforesaid by additional rate or otherwise ;
- (c) And of any money derived from any temporary investment of the sinking fund ;
- (d) And of any surplus money derived from any corporation work or from any share or interest therein ;
- (e) And of any unappropriated money in the treasury ;

such moneys respectively not having been otherwise appropriated.

The sources and application to be stated.

2. The by-law making the appropriations shall distinguish the several sources of the amount, and the portions thereof to be respectively applied for the interest and for the sinking fund appropriation of the debt for the next ensuing year.

When moneys retained sufficient, the yearly rate may be suspended for the ensuing year.

3. In case the moneys so retained at the credit of the special rate account, and so appropriated to the sinking fund account, from all or any of the sources above mentioned, are sufficient to meet the sinking fund appropriation and interest for the next ensuing year, the council may then pass a by-law directing that the original rate for such next ensuing year be not levied. 55 V., c. 42, s. 369.

By-law must recite—

415.—(1) The by-law shall not be valid unless it recites—

The original debt and object ;

(a) The original amount of the debt, and in brief and general terms, the object for which the debt was created ;

The amount paid ;

(b) The amount, if any, already paid of the debt ;

The annual amount for sinking fund.

(c) The annual amount of the sinking fund appropriation required in respect of such debt ;

The amount for sinking fund in hand ;

(d) The total amount, then on hand, of the sinking fund appropriations, in respect to the debt, distinguishing the amount thereof in cash in the treasury, from the amount temporarily invested ;

The amount required for interest ;

(e) The amount required to meet the interest of the debt for the year next after the making of such anticipatory appropriation ; and

And that it is reserved, etc.

(f) That the council has retained at the credit of the special rate account of the debt a sum sufficient to meet the next year's interest (naming the amount of it), and that the council has carried to the credit of the sinking fund account a sum sufficient to meet the sinking fund appropriation (naming the amount of it) for such year.

By-law to be approved by Lieut.-Governor.

(2) No such by-law shall be valid unless it is approved by the Lieutenant-Governor in Council. 55 V., c. 42, s. 370.

416. After the dissolution of any municipal union, the senior municipality may make an anticipatory appropriation for the relief of the junior municipality, in respect of any debt secured by by-law, in the same manner as the senior municipality might do on its own behalf. 55 V., c. 42, s. 371.

Anticipatory appropriation on separation of municipalities.

ACCOUNTS AND INVESTMENTS.

Accounts for special rate and sinking fund. Sec. 417.

Surplus on special rate—Application of. Secs. 418, 419.

Surplus on special rate—Investment of. Sec. 420.

General surplus—Application of. Secs. 421-424.

Members of corporations not to be parties to investments.

—Liability for loss. Sec. 425.

Yearly returns to Government. Secs. 426, 427.

417. The council of every municipal corporation shall keep in its books two separate accounts of every debt, one for the special rate and one for the sinking fund or for instalments of principal, both to be distinguished from all other accounts in the books by some prefix designating the purpose for which the debt was contracted; and they shall keep the said accounts, with any others that are necessary, so as to exhibit at all times the state of every debt, and the amount of moneys raised, obtained, and appropriated for payment thereof. 55 V., c. 42, s. 372.

Two special accounts to be kept; (1) of the special rates; (2) of the sinking fund or instalments of principal.

418.—(1) If after paying the interest of a debt for any financial year, and appropriating the necessary sum to the sinking fund of such debt, or in payment of any instalment of principal, there is a surplus at the credit of the special rate account of such debt, such surplus shall so remain, and may be applied, if necessary, towards the next year's interest; but if such surplus exceeds the amount of the next year's interest, the excess shall be carried to the credit of the sinking fund account, or shall be applied in payment of principal of such debt.

When surplus may be applied to next year's interest, and to sinking fund.

(2) No moneys levied and collected for the purpose of a sinking fund shall in any case be applied towards paying any portion of the current or other expenditures of the municipality, save as may be otherwise authorized by this or any other Act. 55 V., c. 42, s. 373 (1-2).

Moneys levied for a sinking fund not to be diverted.

(3) In the event of the council of a municipality diverting any of said moneys for current or other expenditure, save as aforesaid, the members who vote for the diverting of said moneys shall be personally liable for the amount so diverted, and the said amount may be recovered in any Court of competent jurisdiction; and the members who have voted for the same shall be disqualified from holding any municipal office

Liability of councillors for diversion of sinking fund.

for the period of two years. In case the council of the municipality, upon the request of any ratepayer, refuse or neglect for one month thereafter to bring an action therefor in the name of the municipality, the action may be brought by any ratepayer on behalf of himself and of all the other ratepayers of the municipality. 55 V., c. 42, s. 373 (3); 60 V., c. 15, *Sched. C* (69).

Treasurer to state annually amount required to be levied for sinking fund.

(4) In every municipality in which any sum of money is required by law to be raised toward a sinking fund, it shall be the duty of the treasurer to prepare and lay before the council in every year previous to the striking of the annual rate, a statement showing what amount or amounts will be required for the purpose; and any treasurer making default in the performance of the duty imposed by this sub-section shall be liable to a penalty not exceeding \$25, to be recovered as are other penalties under this Act, at the instance of any ratepayer resident in the municipality.

Liability of members of council neglecting to levy for sinking fund.

(5) In the event of the council of a municipality neglecting in any year to levy the amount required to be raised under this or any other Act to provide a sinking fund for the payment of the debenture debt of the municipality, every member of the council shall be disqualified from holding any municipal office for the period of two years; but no member of the council shall be liable to the penalty hereby imposed, who shows to the satisfaction of the Court or Judge that he made reasonable efforts to procure the levying of the rate for the said sinking fund. 56 V., c. 35, s. 9.

Application of moneys with consent of Lieut.-Governor in Council.

419. The Lieutenant-Governor in Council may, by Order in Council, direct that such part of the produce of the special rate levied, and at the credit of the sinking fund account or of the special rate account as aforesaid, instead of being so invested as hereinafter provided, shall from time to time, as the same accrues, be applied to the payment or redemption, at such value as the said council can agree for, of any part of such debt or of any of the debentures representing or constituting such debt, or any part of it, though not then payable, to be selected as provided in such Order in Council, and the municipal council shall thereupon apply, and continue to apply, such part of the produce of the special rate at the credit of the sinking fund account, or special rate account, as directed by such Order in Council. 55 V., c. 42, s. 374.

Investment of surplus moneys raised on special rates.

420.—(1) If any part of the produce of the special rate levied in respect of any debt, and at the credit of the sinking fund account, or of the special rate account thereof, cannot be immediately applied towards paying the debt, by reason of no part thereof being yet payable, the council shall, from time to time, invest the same in government securities, municipal debentures, or in first mortgages on real estate held and used

for farming purposes, and being the first lien on such real estate, or in local improvement debentures of the municipality, or in such other manner as the Lieutenant-Governor in Council may by general or special Order in Council direct, or in any other debentures of the municipality which may be approved of by the Lieutenant-Governor in Council by such Order in Council; and from time to time, as such securities mature, may invest the proceeds thereof in other like securities; but no sum so invested in mortgages shall exceed two-thirds of the value, according to the last revised and corrected assessment roll at the time it is invested, of the real estate on which it is secured.

(2) The council of the municipality may regulate by by-law the manner in which such investments shall be made.

To be regulated by by-law.

(3) It shall not be necessary that any local improvement or other debentures of the municipality referred to in this section shall have been disposed of by the council, but the council may apply the sinking fund to an amount equal to the amount of such debentures towards the purposes to which the proceeds of such debentures would properly be applicable, and the council shall thereupon hold the debentures as an investment on account of the sinking fund, and may deal with the same accordingly. 55 V., c. 42, s. 375.

Sinking fund may be used in purchasing unsold debentures.

421. Any council may by by-law direct that any surplus moneys in the hands of the treasurer, and not specially appropriated to any other purpose, shall be credited to the sinking fund account of any debenture debt of the municipality, and the council may, subject to the provisions of the preceding section, invest such sinking fund account in any of the securities therein named. 55 V., c. 42, s. 376.

Investment of sinking fund.

422. A council may appropriate to the payment of any debt the surplus income derived from any public or corporation work, or from any share or interest therein, after paying the annual expenses thereof, or may so appropriate any unappropriated money in the treasury, or any money raised by additional rate; and any money so appropriated shall be carried to the credit of the sinking fund of the debt, or in payment of any instalment accruing due. 55 V., c. 42, s. 377.

Council may apply other funds towards such debts.

423.—(1) A municipal corporation having surplus moneys derived from "The Ontario Municipalities Fund," or from any other source, may, by by-law, set such surplus apart for educational purposes, and may invest the same, as well as any other moneys held by such municipal corporation for, or by it lawfully appropriated to, educational purposes, in public securities of the Dominion, municipal debentures, or first mortgages on real estate held and used for farming purposes, being the first lien on such real estate, and from time to time, as such securities mature, may invest in such other like securities, or in

Certain moneys may be set apart for educational purposes.

Investment of same.

securities already authorized by law, as may be directed by the by-law, or by other by-laws passed for that purpose.

Proviso as to investment.

(2) No sum so invested shall exceed two-thirds of the value, according to the last revised and corrected assessment roll at the time it is so invested, of the real estate on which it is secured. 55 V., c. 42, s. 378. *See also Cap. 34.*

Loans to school trustees.

424. Any municipal corporation having surplus moneys set apart for educational purposes, may, by by-law invest the same in a loan or loans to any board of school trustees within the limits of the municipality, for such term or terms, and at such rate or rates of interest as may be agreed upon by and between the parties to such loan or loans respectively, and as may be set forth in such by-law; or may by by-law grant any portion of such moneys, or other general funds, by way of gift to aid poor school sections within the municipality. 55 V., c. 42, s. 379.

Aid to poor school sections.

No member of corporation to be party to investment.

425. No member of a municipal council shall take part in, or in any way be a party to, the investment of such moneys as are mentioned in this Act, by or on behalf of the municipality, otherwise than is authorized by this Act, or by any other law in that behalf made and provided; and any person so doing shall be held personally liable for any loss sustained by the municipality. 55 V., c. 42, s. 380; 60 V., c. 3, s. 3.

Liability for loss.

Municipalities indebted to Municipal Loan Fund to make annual returns to Provincial Treasurer.

Penalty for default.

426. The treasurer of any municipality for which any sum of money has been raised on the credit of the Consolidated Municipal Loan Fund, shall, so long as any part of such sum, or of the interest thereon, remains unpaid by the municipality, transmit to the Treasurer of Ontario, on or before the 15th day of January in every year, a return, certified on the oath of the treasurer before some Justice of the Peace, containing the amount of taxable property in the municipality according to the then last revised assessment roll or rolls; a true account of all the debts and liabilities of the municipality, for every purpose, for the then last year; and also such further information and particulars with regard to the liabilities and resources of the municipality, as the Lieutenant-Governor in Council may from time to time require, under a penalty, in case of neglect or refusal to transmit the return, account, information or particulars, of \$100, to be recovered with costs, as a debt due to the Crown. 55 V., c. 42, s. 381.

Every council to make a yearly report of the corporation debts to the Lieut.-Governor, etc.

427. Every council shall, on or before the 31st day of January in each year, under a penalty of \$20 in case of default, to be paid to the Treasurer of Ontario, transmit to the Lieutenant-Governor, through the Minister of Agriculture, an account, in such form as may from time to time be prescribed by the Lieutenant-Governor in Council, of the several debts of the corporation, as they stood on the 31st day of December

preceding, specifying in regard to every debt of which a balance remained due at that day,

1. The original amount of the debt ;
2. The date when it was contracted ;
3. The days fixed for its payment ;
4. The interest to be paid therefor ;
5. The rate provided for the redemption of the debt and interest ;
6. The proceeds of such rate for the year ending on said 31st day of December ;
7. The portion (if any) of the debt redeemed or paid during that year ;
8. The amount of interest (if any) unpaid on said 31st day of December ; and
9. The balance still due of the principal of the debt. 55 V., c. 42, s. 382.

What such report must shew.

COMMISSION OF INQUIRY INTO FINANCES.

When granted—Expenses of. Sec. 428.

428.—(1) In case one-third of the members of any council, or thirty duly qualified electors of the municipality, petition for a commission to issue under the Great Seal, to inquire into the financial affairs of the corporation, and things connected therewith, and if sufficient cause is shown, the Lieutenant-Governor in Council may issue a commission accordingly, and the commissioner or the commissioners, or such one or more of them as the commission empowers to Act, shall have the same power as any Court has in civil cases to summon witnesses, enforce their attendance, and compel them to produce documents and to give evidence. 55 V., c. 42, s. 383.

When a commission of inquiry may issue.

(2) The expenses to be allowed for executing the commission shall be determined and certified by the Treasurer of Ontario, and shall thenceforth become a debt due by the corporation to the commissioner or commissioners, and shall be payable within three months after demand therefor, made by the commissioner or by any one of the commissioners, at the office of the treasurer of the corporation. 55 V., c. 42, s. 384.

Expenses of such commissions.

DEBENTURES.

Debentures and coupons, how to be executed. Sec. 429.

Debentures negotiated at a discount, or bearing more than 6 per cent. interest. 29-30 V., c. 51, ss. 214-217.

Railway and bonus debentures. Sec. 430.

Debentures under promulgated by-law. Sec. 431.

Debentures under registered by-law. Sec. 399.

Debentures issued before 1st Feb., 1883, etc. Sec. 432.

Local improvement debentures—consolidation thereof. Sec. 433.

Transfer of debentures. Sec. 434.

Councils borrowing for current expenses. Sec. 435.

No debentures, etc., to issue for less than \$100. Sec. 436.

Debentures,
bonds, etc.,
how to be
executed.

429.—(1) All debentures and other instruments duly authorized to be issued on behalf of a municipal corporation shall, unless otherwise specially authorized or provided, be sealed with the seal of the corporation, and signed by the head thereof, or by some other person authorized by by-law to sign the same, otherwise the same shall not be valid; and it shall be the duty of the treasurer of the municipality to see that the money collected under the by-law is properly applied to the payment of the interest and principal of the debentures. 55 V., c. 42, s. 405.

Execution of
debenture
coupons.

(2) The coupons attached to every such debenture issued by any municipal corporation other than a city shall each be signed by the head of the municipality and the treasurer of the corporation. 59 V., c. 51, s. 8.

Full amount
of debentures
sold at a dis-
count recover-
able.

(3) Subject to any Act of the Parliament of Canada which may be passed respecting the lawful rate of interest, any debentures issued under the formalities required by law, by any municipal or provisional municipal corporation, payable to bearer, or to any person named therein or bearer, shall be valid and recoverable to the full amount, notwithstanding their negotiation by such corporation at a rate less than par, or at a rate of interest greater than six per centum per annum, or although a rate of interest greater than six per centum per annum is reserved thereby or made payable thereon. 29-30 V., c. 51, ss. 214, 217.

In certain
cases, debentures valid
without corpo-
rate seal, etc.

430. Debentures issued in aid of any railway, or for any bonus, signed or indorsed and countersigned as directed by the by-law, shall be valid and binding on the corporation without the corporate seal thereto, or the observance of any other form with regard to the debenture than such as may be directed by the by-law. 55 V., c. 42, s. 406.

Debentures
valid notwith-
standing de-
fect in form.

431. Debentures issued under the authority of any by-law promulgated under this Act or any former Municipal Act, shall

be valid and binding upon the corporation, notwithstanding any insufficiency in form or otherwise of such by-law, or in the authority of the corporation in respect thereof; provided that the by-law has received the assent of the electors (where necessary), and that no successful application has been made to quash the same within the time limited in the notice of promulgation. 55 V., c. 42, s. 407.

Proviso.

[As to validity of Debentures under by-laws duly registered. See Sec. 399.]

432. Where debentures were issued prior to the first day of February, 1883, by any municipality under a by-law passed by such municipality, and the interest on such debentures, and the principal of such of them (if any) as have fallen due, has been paid by the municipality for the period of two years or more, the by-law and the debentures issued thereunder, or such of them as are yet unpaid, shall be valid and binding upon the corporation, and shall not be quashed or set aside on any ground whatever. 55 V., c. 42, s. 408.

Debentures issued before Feb. 1, 1883, on which payment has been made for two years, to be valid.

433.—(1) Every debenture issued under section 664 of this Act, or under the provisions of any other Act relating to the issue of debentures for local improvement purposes, shall bear on its face the words "*Local Improvement Debenture*," and shall contain a reference by date and number to the by-law under which it is issued,

Local improvement debentures.

(2) In order to obviate a difficulty which has been found to prevail in negotiating local improvement debentures, in consequence of many of the same having to be issued for small and broken amounts, councils may, from time to time, after the passing of the several by-laws covering the several amounts required for particular local improvements, as therein specified, and without in any way affecting the liens on the lands therein named and to be improved thereby, pass a collective or cumulative by-law consolidating the said several amounts, and may issue the required debentures in a general consecutive issue under such consolidated by-law, apportioning, nevertheless, the amount raised thereby, and crediting each service with the amount previously estimated and named for the same under the individual by-law passed in the first instance.

Consolidation thereof.

(3) Councils desiring to avail themselves of the provisions of the preceding sub-section shall insert, in each such by-law, a clause intimating that the amount of the debentures to be issued thereunder is subject to consolidation; and in such case it shall be sufficient to state in the said individual by-law that debentures to be issued thereunder shall be issued at so many years from the date of issue of the same, without defining a specific date;

(4) No consolidated debenture shall be issued, covering any debentures which have been issued or sold under any original by-law. 55 V., c. 42, s. 409.

Mode of
transfer may
be prescribed.

434.—(1) Debentures issued by any municipal council may contain a provision in the following words :

“ This debenture, or any interest therein, shall not, after a certificate of ownership has been indorsed thereon by the treasurer of this municipal corporation, be transferable, except by entry by the treasurer or his deputy in the Debenture Registry Book of the said Corporation at the town (or village) of _____ ”, *or to the like effect.*

55 V., c. 42, s. 410

Debenture
registry book.

(2) The treasurer of every municipality issuing any debentures containing the provision in the last sub-section mentioned, shall open and keep a Debenture Registry Book, in which he shall enter a copy of all certificates of ownership of debentures, which he may give, and also every subsequent transfer of such debenture ; such entry shall not be made except upon the written authority of the person last entered in such book as the owner of such debenture, or of his executors or administrators, or of his or their lawful attorney, which authority shall be retained and duly filed by the treasurer. 55 V., c. 42, s. 411.

Registered
debentures
transferred by
entry, etc.

(3) After the certificate of ownership has been indorsed as aforesaid, the debenture shall only be transferable by entry, by the treasurer of the municipality or his deputy, in such Debenture Registry Book, from time to time, as transfers of such debenture are authorized by the then owner thereof, or his lawful attorney. 55 V., c. 42, s. 412.

Borrowing
sums for
current
expenditure.

435.—(1) The council of any municipality may by by-law authorize the head, or acting head, with the treasurer thereof, to borrow from any person or bank such sums as the council deem necessary to meet the then current expenditure of the corporation, until such time as the taxes levied therefor can be collected, and the council shall by such by-law regulate the amounts to be so borrowed, and define the notes, cheques, covenants or agreements or other vouchers to be given in security therefor. 56 V., c. 35, s. 10 ; 60 V., c. 45, s. 50, *part.*

Limit of
amount to be
borrowed for
current expen-
diture.

(2) The amount so borrowed and outstanding shall not, in the case of any municipality other than a county, exceed eighty per cent. of the amount collected as taxes, to pay the ordinary current expenditure of the municipality in the preceding municipal year, and in the case of a county, the amount so borrowed and outstanding shall not at any time exceed the amount to be raised and paid over to the county by the local municipalities therein for ordinary expenditure for county purposes for the current municipal year, and in the event of

any council authorizing the borrowing of any larger sum than the amount limited by this sub-section, the members of the council who vote therefor shall be disqualified from holding any municipal office for the period of two years.

(a) Sub-section 2 shall not be held to have applied heretofore to a town or township any portion of which is situate within two miles of city containing more than 100,000 inhabitants, nor shall the said sub-section apply to such town or township until the last day of the next ensuing session of this Legislature, but it shall thereafter apply to such municipalities. 61 V., c. 23, s. 16.

(3) The powers by this section conferred shall not be exercised except for the purpose of meeting the ordinary expenditure of the municipality; and the person or bank lending any sum to a municipal corporation under this section shall not be bound to establish the necessity of borrowing the same. 60 V., c. 45, s. 50, *part*.

(4) The council of any municipality shall have similar borrowing powers, with regard to moneys required by the trustees of any public school within such municipality or by the trustees of a high school district of which such municipality is partly or wholly composed; provided such sums of money do not exceed the estimates submitted by such public or high school trustees as required by *The Public Schools Act* and *The High Schools Act*. 57 V., c. 50, s. 5, *part*.

Borrowing
money for
school pur-
poses.

Rev. Stat.
cc. 292, 293.

436. Unless specially authorized so to do, no council shall make or give any bond, bill, note, debenture or other undertaking, for the payment of a less amount than \$100; and any bond, bill, note, debenture or other undertaking issued in contravention of this section, shall be void. 55 V., c. 42, s. 414.

Without
special author-
ity, no bond,
etc., to be
given for less
than \$100.

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MUNICIPAL AND SCHOOL ACCOUNTS.

R. S. O. 1897, CAP. 228.

An Act to make better provision for keeping and
auditing Municipal and School Accounts.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Act not to
apply to cities
of over 15,000.

1. This Act shall not apply to cities having a population of over fifteen thousand by the latest enumeration of the assessors; and the word “city” when it appears herein shall apply and include only cities having a population of fifteen thousand or less.

Appointment
of Provincial
Municipal
Auditor.

2. The Lieutenant-Governor in Council may from time to time appoint for the purposes of this Act a Fellow of the Institute of Chartered Accountants of Ontario, or some other expert accountant who shall be known as “The Provincial Municipal Auditor.”

Auditor may
make rules
subject to
approval by
Order in
Council.

3. It shall be the duty of the Provincial Municipal Auditor, subject to the approval of the Lieutenant-Governor in Council, from time to time to frame rules respecting the following matters namely:—

(a) The number and forms of books of account to be kept by the treasurers of county, city, town, township and village municipalities and of police villages respectively;

(b) The system of book keeping to be adopted by all municipal treasurers, or by the treasurers of any class of municipalities, and by the treasurers of all or of any class of school boards;

(c) The manner in which books of account, vouchers, receipts, moneys and securities of municipalities and school boards shall be kept;

(d) The audit and examination of accounts and moneys of municipal corporations and of school moneys by municipal and school auditors respectively, or by the Provincial Municipal Auditor, or by any person appointed by him for that purpose.

4. The rules so made shall after approval by the Lieutenant-Governor in Council and publication in *The Ontario Gazette*, have the force of law, and any officer of a municipal corporation guilty of any wilful act or omission in contravention of such rules, in addition to any other penalty provided by law, shall upon conviction before two or more justices of the peace, be liable to a penalty of not more than \$100, nor less than \$20 and costs, and shall be disqualified for the period of two years thereafter from holding any municipal office.

Rules to have force of law.

Penalty for violation of rules.

5. In order that municipal accounts may be kept correctly and according to a uniform method, the said Auditor shall prepare a book or sets of books of account upon a proper system for use by county, city, town, township and village corporations and police villages respectively; and he shall submit the said books to the Lieutenant-Governor in Council for approval.

Auditor to prepare books for municipalities.

6. The said auditor when directed by and subject to the approval of the Lieutenant-Governor in Council as aforesaid, shall also from time to time prepare books of account upon a simple and uniform system of bookkeeping, for use by the various school boards throughout the Province, except in cities having a population of 15,000 or over, to be determined as hereinafter mentioned.

Books for use of school boards.

7.—(1) After the approval of the said books by the Lieutenant-Governor in Council, and after notice of their preparation and publication has been given in *The Ontario Gazette*, and in two public newspapers published in the city of Toronto once a week for three successive weeks, and after a notice of such approval has been sent to the clerk of each municipality to which this Act applies, by registered letter, the council of each of such municipalities and each of such school boards shall at the beginning of the next year after the last publication of said notice, procure the book or books prescribed for their municipality or board, and shall keep the accounts of the municipality or board therein, and in accordance with the system provided thereby, and any municipality aforesaid which refuses or neglects so to do, shall be liable to the penalty of \$100 for every month it may be in default, to be recovered by the said auditor or by any ratepayer in the municipality with the consent of the auditor in any court of competent jurisdiction with full costs of suit; and every school board of any city or town which refuses or neglects so to do shall be liable to a penalty of \$50, and every other school board shall be liable to

Councils and boards to procure books prescribed.

Penalty.

a penalty of \$25 for every month it is in default, to be recovered by any ratepayer of the city or town or school section with the consent of the auditor in any court of competent jurisdiction with full costs of suit.

(2) Provided, nevertheless, that where any municipality or board shall establish to the satisfaction of the Provincial Municipal Auditor that the system adopted and the books in use by such municipality or board are sufficient and satisfactory, and the auditor so certifies, the use of the books or the adoption of the system hereinbefore provided for shall not be compulsory, and the penalties in such case shall not be incurred.

Arrangements
for publication
of books.

8. In case there is no prospect of the publication of said books or of any one or more of them by some responsible publisher, the Auditor may call for tenders for their publication, and with the approval of the Lieutenant-Governor in Council may arrange for such publication and for the sale thereof, and in order that said books may be supplied to the public at a reasonable cost, may, with the like approval, fix the price at which the same shall be sold.

Inspection and
audit of municipal
accounts.

9.—(1) The Provincial Municipal Auditor may at any time on his own motion, or whenever requested by any two members of a municipal council, make an inspection, examination or audit of the books, accounts, vouchers and moneys of any municipal corporation in the hands of the treasurer or collector thereof, and when required by a requisition in writing signed by thirty ratepayers resident in the municipality and directed by the Lieutenant-Governor in Council, he shall make such an inspection, examination or audit.

(2) The said Auditor may at any time on his own motion make an inspection, examination or audit of the books, accounts, vouchers and moneys of any school board in the hands of its treasurer, collector or other officer.

(3) The said Auditor may with the approval of the Lieutenant-Governor in Council appoint a Fellow of the Institute of Chartered Accountants of Ontario, or some other expert accountant who is familiar with municipal accounts, to make such inspection, audit or examination, and the person so appointed shall have all the powers and shall perform all the duties by this Act conferred or imposed upon the said Auditor when acting under this section.

Powers of
auditor while
holding investigation.

10. The said Auditor upon any such audit, examination or inspection may require the treasurer, collector or auditor of any municipality or school board, or any other person, to appear and give evidence on oath, and for this purpose he shall have the same power to summon such officers or other persons to attend as witnesses, to enforce their attendance, and to compel them to produce books and documents and to give evidence as

any judge or court has in civil cases, and the officers of all municipalities and school boards shall as often as required by the said Auditor produce all books and documents required to be kept by them, at the treasurer's office for examination and inspection.

11. It shall be the duty of every municipal treasurer within five days after his appointment to office to inform the said Auditor of his appointment and of his full name and post-office address. To notify auditor of appointment.

12.—(1) Every treasurer shall whenever requested so to do by the Provincial Municipal Auditor, at any reasonable time, produce and exhibit for examination and inspection all books, accounts, vouchers and documents in his hands as treasurer of the municipality. Treasurer to produce books when required by auditor.

(2) Any treasurer who neglects or refuses to comply with the provisions of sub-section 1 of this section shall, on summary conviction thereof, before two or more justices of the peace, be liable for each offence to a fine of not more than \$20, nor less than \$5, besides the costs of conviction. Penalty.

13. The Provincial Municipal Auditor or any other person making an audit, inspection or examination under this Act, shall report thereon to the council of the municipality, and to the Lieutenant-Governor, and shall in such report make such recommendations as may seem to him to be necessary to carry out the provisions of this Act and *The Municipal Act* and the School Laws as regards the keeping of the books and accounts of the municipality or board and so as best to secure the moneys and assets of the said corporation. Report on inspection or audit, etc.

14. It shall be the duty of every member of the council of a municipality, by every means in his power, to procure the due observance by the council and officers of the corporation of the provisions of this Act and the rules to be made hereunder, and to see that the recommendations of the said Auditor, or of any person appointed by him as hereinbefore mentioned are duly carried out. Members of councils to see that Act carried out.

15. Whenever the said Auditor personally conducts an audit, inquiry, inspection or examination under this Act, the fees and expenses to be allowed therefor shall be determined and certified by the Attorney-General or other Minister, and shall become a debt due to the Crown from the municipality, and in default of payment thereof the Provincial Treasurer may deduct the same from any moneys payable to the municipality by the Province, or such fees and expenses may be recovered in any court of competent jurisdiction in the name of the Provincial Municipal Auditor. Payment of expenses of inspection audit by auditor.

Payment of expenses when work done by another person.

16 Whenever such audit, inquiry, inspection or examination is conducted by any person other than the said Auditor, the fees and expenses to be allowed for the same shall be determined by the Auditor subject to the approval of the Attorney-General or other Minister, and shall thenceforth become a debt due such person by the municipal corporation, and shall be payable within three months after demand thereof at the office of the treasurer of the municipality.

Remuneration of auditor.

17. The said Auditor shall not receive from any municipal corporation, or from any officer thereof, any fees or other remuneration for services rendered by him in the fulfilment of the duties of his office under this Act, and in lieu of all other fees, emoluments or expenses he shall be paid out of the consolidated revenue fund such salary per annum as shall from time to time be provided by the Legislature, and reasonable travelling and other expenses.

Annual report of auditor.

18. The said Auditor shall annually prepare and present to the Lieutenant-Governor a report showing the number and character of the investigations made by him or under his direction during the preceding year, and also as to any changes in the law or in the rules made under this Act which he may consider advisable.

By-laws directing payment of moneys into bank to credit of corporation.

19.—(1) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be by the person charged with the payment thereof paid into a chartered bank having an office in the municipality, and in such case the person making the payment shall obtain a receipt from the bank therefor, and produce the same to the municipal treasurer, who shall make the proper entries thereof in the books of the municipality.

By-laws directing that cheque of treasurer shall be countersigned.

(2) The council of any municipality may by by-law direct that moneys of the municipality paid to or received by the treasurer of the municipality, deposited in a chartered bank or elsewhere to the credit of the municipal corporation, shall be withdrawn therefrom only upon the cheque of the treasurer, countersigned by the head of the municipality or such other person or official as may be named in the by-law.

Treasurer to keep money of corporation or board separate from his own.

20. The treasurer of every municipality and school board shall keep the moneys held by him as such treasurer entirely separate from his own moneys, and in depositing any moneys of the municipality or board in any bank or company he shall deposit the same to a separate account kept in his name as treasurer of the municipality or school board under some designation that will show the account to be an account of the money of such municipality or school board.

21. The manager or other person in charge of the business of every chartered bank or private bank or company in which the treasurer of any municipality or school board deposits moneys and keeps an account as such treasurer, shall truly state the balance in the hands of the bank or company or charged to the treasurer at any time when required so to do by a member of the council or school board; and shall, on or before the fourth day of the months of January, April, July and October in every year, make up and deliver or send by registered letter to the head of the municipality or chairman of the school board, as the case may be, a statement in writing signed by such manager or person in charge, showing the balance of such treasurer's account at the close of business on the last day of the preceding month, and the head of the municipality or chairman shall cause the same to be read at the next regular meeting of the council or school board held thereafter.

Bank to state balance of treasurer's account to member of council or board.

Statement of balance to be rendered quarterly.

22. The mortgagor and every other person liable for the payment of any debt secured by a mortgage given to or held by a municipal corporation, shall, on the 31st day of December, in every year, deliver to the head of the municipality a statement in writing showing the amount remaining unpaid upon such mortgage at the said date, and the head of the municipality shall lay the said statement before the council at the next regular meeting held thereafter.

Persons liable to corporation on mortgage to state balance due thereon annually.

23. Every person guilty of any act or omission in contravention of this Act for which no other penalty is provided, shall be liable, on summary conviction thereof before two or more justices of the peace, to a fine of not less than \$5 and not more than \$20, and costs of conviction.

Penalties.

24. Nothing in this Act contained shall affect or impair any security heretofore given by any treasurer to the municipality for the due and faithful performance of the duties of his office, nor be deemed to relieve the sureties named in any bond or other security from liability in case of default on the part of the treasurer in duly accounting for all moneys coming into his hands. Nor shall anything herein contained relieve the council or board or any member thereof from their present duty to appoint competent auditors.

Securities heretofore given by treasurers not affected.

25. Nothing in this Act contained shall be deemed to affect or repeal the provisions of section 428 of *The Municipal Act*, relating to the issue of commissions of enquiry into the financial affairs of municipal corporations.

Act not to affect provisions of 55 V. c. 42, s. 428.

26. Nothing in this Act contained shall relieve municipal councillors or officers from any duty now imposed upon them by law.

Councillors and officers not relieved from other duties.

27. This Act shall be read with and as part of *The Municipal Act*.

Act to be read with 55 V. c. 42.

SEPARATE SCHOOL FINANCES.

R. S. O. 1897, CAP. 295.

An Act respecting Separate Schools.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Separate Schools Act.*"
R. S. O. 1887, c. 227, s. 1.

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BORROWING POWERS.

Borrowing
powers of
trustees of
separate
schools.

61.—(1) The trustees of a separate school shall have full power as a body corporate to borrow money for school purposes, and to make valid mortgages and other instruments for the security and payment of such borrowed money, or of moneys payable or to be paid for school sites, school buildings, or additions thereto, or the repairs thereof, upon the school house property and premises, or any other real or personal property vested in them, or upon the separate school rates, and any rate-payer who was a separate school supporter at the time when the loan was effected on the security of the said rates or property shall, while resident within the section or municipality within which the separate school is situate, continue to be liable for the rate to be levied for the repayment of the loan.

(2) The principal money representing any sum so borrowed may, in the mortgage or other instrument securing the repayment thereof, be made payable in annual or other instalments, with or without interest, and the trustees, in addition to all other rates or moneys which they may now levy in any one year, shall also have power and authority to levy and collect such further sum or sums as in each year may be requisite for paying all principal money and interest falling due in such year under the terms of such mortgage or other instrument aforesaid, and the said sums shall be levied and collected in

each year in the same manner and form, and from the like persons and property by, from, upon or out of which other separate school rates may now be levied and collected.

(3) The mortgages and other instruments which the trustees have power to make, as aforesaid, for the security and payment of money borrowed or payable for school purposes may, in the discretion of the trustees, be made in the form of debentures; and debentures shall be a charge on the same property and rates aforesaid, as in the case of mortgages thereof made by the trustees, as in sub-section 1 mentioned.

(4) Every by-law of the trustees for the issue of such debentures shall be sealed with the corporate seal of the board of trustees, and shall be signed by the chairman and secretary of the board, and the by-law may be quashed by application to the High Court at Toronto, in the same way as municipal by-laws may be quashed. R. S. O. 1887, c. 227, s. 58 (1-4).

(5) The by-law shall name a day in the financial year in which the same is passed when the by-law is to take effect, and shall state the whole of the debt and the obligations to be issued thereunder, and shall make the same payable in thirty years at furthest from the day on which the by-law takes effect and shall provide for including thereafter in the yearly separate school rate a sufficient sum for the payment of an amount sufficient to pay the yearly interest during the currency of the debentures, and also a certain specific sum to be realized annually for the payment of the principal, which specific sum shall be sufficient with the estimated interest on the investments thereof to discharge the debt when payable. R. S. O. 1887, c. 227, s. 58 (5); 59 V., c. 72, s. 1.

(6) Every such by-law, before being acted upon, shall be published for at least three successive weeks in some public newspaper published weekly, or oftener, in the city, town or county in which the separate school is situate, and if no application to quash the by-law is made for three months after the publication thereof as aforesaid, the by-law shall, as in the case of a municipal by-law, be valid, notwithstanding any want of substance or form in the by-law or in the time or manner of passing the same.

(7) No debenture issued under the by-law shall be for less than \$100. The debentures may be in the form given in Schedule H to this Act.

(8) Nothing contained in the preceding five sub-sections shall be deemed to declare or imply any construction of any statute or of any provision thereof, passed prior to the 20th day of April, in the year 1887, or as declaring or implying that the trustees had not theretofore power to make and issue debentures for the security and payment of money borrowed or payable for school purposes. R. S. O. 1887, c. 227, s. 58 (6-8).

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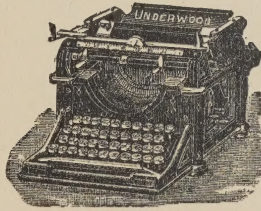
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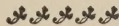
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